

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 727 (Chairman, Economic Matters Committee)
(By Request – Departmental – Labor, Licensing, and Regulation)

Economic Matters Education, Health, and Environmental Affairs

State Board of Barbers - State Board of Cosmetologists - Citations

This departmental bill authorizes inspectors for the State Board of Barbers and inspectors for the State Board of Cosmetologists to issue citations to and impose civil penalties on licensees and permit holders for violations of laws and regulations of the respective boards. The bill provides for the form, content, and service of the citations as well as the right to contest a citation. Civil penalties set forth in the citation are required to be contested or paid within 60 days. Failure to do so subjects the licensee to reprimands or suspension or revocation of the license. The bill prohibits contested cases from being delegated to the Office of Administrative Hearings. Each board is required to establish by regulation a schedule of civil penalties. Any civil penalties imposed may not exceed \$300 for all violations cited per day.

Fiscal Summary

State Effect: Potential increase in general fund revenues from civil penalties imposed. The amount of the revenue increase depends on the fine schedule implemented by each board. Minimal effect on expenditures.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment. The attached assessment does not reflect amendments to the bill.

Analysis

Current Law: The State Board of Barbers and the State Board of Cosmetologists are not authorized to issue citations or impose civil penalties for violations of the rules and regulations established by the respective boards.

Background: Currently, when a board inspector observes a violation at a beauty salon or barbershop, the inspector issues a violation notice which simply advises the person of the violations that were observed. Copies of the violation notices are forwarded to the relevant board and a determination is made as to whether the violation warrants a formal adjudicatory hearing. A majority of violations are deemed to not warrant a hearing. In these cases, a warning letter is sent from the board or an informal hearing is conducted by the board. On average, the State Board of Cosmetologists issues 325 warning letters and holds approximately 650 informal hearings. The State Board of Barbers issues approximately 100 warning letters and holds about 220 informal hearings a year.

DLLR indicates that a system of citations and civil penalties is preferable to the current system for all parties involved. The current system is time consuming to the boards and those receiving violation notices, and in many instances does not achieve the goal of deterring or eliminating violations.

Similar legislation providing for the issuance of a citation by an inspector on behalf of a Board of Cosmetologists and/or Board of Barbers has been enacted in several states and the District of Columbia. These states include California, Florida, Illinois, Ohio, Nevada, Texas, Georgia, Oregon, New Mexico, South Carolina, Louisiana, Alaska, and Pennsylvania.

State Fiscal Effect: General fund revenues would increase as a result of the civil penalties authorized by the bill. The actual amount of revenue generated would depend on the schedule of civil penalties established by each board and the number of fines issued and collected.

DLLR advises that preliminary discussions with the boards indicate that each board could list up to 30 different violations with fines ranging from \$25 to \$150, depending on the violation and number of times a particular offense has occurred. The bill caps the amount of fines per establishment at \$300 per day.

For illustrative purposes only, if the average per day violation were \$87.50 and the boards issued 300 citations a year, general fund revenues could increase by approximately \$26,250 annually. However, as noted previously, the actual amount of

revenue generated would depend on the types of violations, the amount of the various fines, and the number of penalties imposed by each board each year.

DLLR indicates that expenditures could increase by a minimal amount for each board as a result of moving to a system of civil penalties. This would be attributable to increased training and hearings related to contested citations. However, it is assumed that any increase in expenditures associated with the bill would be more than offset by reduced costs for the warning letters and informal hearings currently used by the boards as their enforcement tools for violations.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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