

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 108

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Agriculture)

Education, Health, and Environmental Affairs

Environmental Matters

Maryland Horse Industry Board - Licensing

This departmental bill clarifies and expands the definition of what types of establishments the Maryland Horse Industry Board (MHIB) regulates. The bill also (1) eliminates cross-references between MHIB provisions and provisions relating to livestock dealers and markets that currently relieve stables and sales operations from needing to obtain both a board license and a livestock dealer's or market license; (2) combines existing initial license and inspection fees and annual license renewal and inspection fees into one initial license fee and one annual license renewal fee; (3) eliminates a fee for additional inspections (more than one) in a licensing period; (4) amends requirements relating to inspection of horse establishments; (5) increases and clarifies penalties applicable to violations of the law; and (6) adds provisions governing hearings required to be provided to a person before the board takes disciplinary or enforcement action.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Special fund revenues increase by \$6,300 in FY 2013, reflecting an increase in fee revenue due to additional licensees. Future years reflect gradually increasing fee revenue due to the cumulative impact of additional licensees. Special fund expenditures may increase in future years (but are not expected to initially) due to personnel expenses to regulate additional licensees.

| (in dollars) | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
|----------------|---------|----------|----------|----------|----------|
| SF Revenue | \$6,300 | \$12,500 | \$18,800 | \$25,000 | \$31,300 |
| SF Expenditure | \$0 | \$0 | - | - | - |
| Net Effect | \$6,300 | \$12,500 | \$18,800 | \$25,000 | \$31,300 |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: The Maryland Department of Agriculture (MDA) has determined that this bill has minimal or no impact on small business (attached). Legislative Services generally concurs with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary/Current Law:

Establishments Regulated by the Maryland Horse Industry Board

The bill clarifies and expands the definition of what types of establishments MHIB regulates, specifying that the board regulates “horse establishments,” which are establishments that solicit or offer to the public any of the following services: (1) a boarding stable; (2) a lesson or rental stable; or (3) a rescue or sanctuary stable. This new definition conforms to the types of establishments the board currently regulates in practice, with one exception: under current law, only boarding stables that stable five or more horses are required to be licensed by the board, but under the bill, a boarding stable with any number of horses will need to be licensed.

Livestock Dealer’s License Cross-references

The bill eliminates cross-references between MHIB provisions and provisions relating to livestock dealers and markets that currently relieve stables and sales operations from needing to obtain both a board license and a livestock dealer’s or market license. Under current law, a board license holder does not need to maintain a livestock dealer’s or market license and vice versa, though in each case a license holder must comply with the laws applicable to both types of license holders.

Fees

The bill alters fees as shown in **Exhibit 1**.

Exhibit 1
MHIB License and Inspection Fees Under Current Law and Under SB 108

| | <u>Current Law</u> | <u>SB 108</u> |
|-----------------------------------------|------------------------------------------------------|---------------------------|
| Fee(s) paid when applying for a license | \$75 license fee; \$50 inspection fee | \$125 license fee |
| Subsequent annual fees | \$75 license renewal fee; \$50 annual inspection fee | \$125 license renewal fee |
| Additional Inspection Fee ¹ | \$50 inspection fee | none |

¹ Paid if more than one inspection of an operation is necessary in one licensing period (one year).

Inspections

Under current law, each licensed horse riding stable must be inspected at least every two years. Additional provisions require a re-inspection if deficiencies are not corrected and require formal charges to be brought and a hearing regarding license suspension or revocation to be held if, after three inspections, existing deficiencies have not been corrected.

The bill repeals these existing provisions governing inspections and instead requires that each licensed horse establishment be inspected as determined by the board.

Penalties

The bill increases the maximum fine a person can receive in a criminal conviction for a misdemeanor violation of the law, from \$250 to \$500. The bill also explicitly specifies that administrative penalties may be imposed by the board for violations of certain provisions of the law – specifically, the section of the law requiring horse establishments to be licensed by the board and provisions listing various grounds for suspension or revocation of a license. This replaces a more general authorization to impose administrative penalties for any violation of the MHIB law. The bill also specifies that the maximum administrative penalty of \$2,000 the board may impose under current law, instead of pursuing criminal penalties, is *for each violation*.

Opportunity for a Hearing

The bill requires that, except as otherwise provided in the Administrative Procedure Act, before taking action against a person for operating a horse establishment without a license or on grounds stated in statute for suspension or revocation of a license, the board must provide the person an opportunity for a hearing before the board. The board must give notice and hold the hearing in accordance with the Administrative Procedure Act and is given specified subpoena power. A person may be represented by counsel and if, after due notice, the person fails or refuses to appear, the board may hear and determine the matter.

Current law only specifies that “[a]fter a hearing, the Board may suspend or revoke [a license]....”

Background: MHIB, which is under the authority of the Secretary of Agriculture, has licensed and inspected horse stables in the State for more than 40 years. The board currently regulates approximately 600 stables. In addition, the board has a broad mission related to serving as an information resource about, supporting research on, and promoting the equine industry in Maryland.

MDA indicates that there are currently varying interpretations about the types of establishments the board licenses and regulates. According to MDA, the bill is primarily intended to clear up any ambiguities about the types of equine establishments MHIB oversees and inspects, as well as to relieve the board of needing to prove that an establishment houses five or more horses; to delete obsolete references; and to clarify and increase penalties for noncompliance.

MDA also indicates that the elimination of the cross-references between the MHIB law and provisions relating to livestock dealers and markets is due to the fact that the new “horse establishment” definition does not include establishments that strictly engage only in horse sales and not boarding, rental, etc. Under current law, “sales barns” are one type of operation subject to regulation by the board, but the board does not currently license operations that are engaged strictly in horse sales. However, generally the board’s licensees do engage in buying and selling of horses to one extent or another. Legislative Services advises that the elimination of the cross-references could result in some operations being required to obtain both a board license and a livestock dealer’s license. There are certain other exemptions from the livestock dealer’s license requirement, however, and MDA advises that the majority, if not all, of the board licensees may fall under those exemptions.

State Fiscal Effect: Special fund revenues increase by \$6,250 in fiscal 2013 due to additional boarding stables with less than five horses becoming licensed. Assuming

additional stables continue to be newly licensed each year as a result of the bill, special fund revenues increase by greater amounts each year as additional fee revenue is generated from additional licensing. The elimination of the \$50 fee for more than one inspection in a licensing period is not expected to affect revenues; MHIB does not currently generate revenue from the fee.

MHIB estimates that the number of licensed stables could increase to as high as 1,000 as a result of the bill, but any increase will likely occur gradually over a number of years. The estimated revenue increases in future years due to the cumulative impact of additional licensees, shown in **Exhibit 2**, assume that 50 additional stables will be licensed each year, paying a \$125 license fee in the initial year and a \$125 license renewal fee in subsequent years.

Exhibit 2
Special Fund Revenue Impact of SB 108

| | <u>FY 2013</u> | <u>FY 2014</u> | <u>FY 2015</u> | <u>FY 2016</u> | <u>FY 2017</u> |
|-----------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Additional Licensees | | | | | |
| New Licensees | 50 | 50 | 50 | 50 | 50 |
| Renewal Licensees | - | 50 | 100 | 150 | 200 |
| Revenue Increase | \$6,250 | \$12,500 | \$18,750 | \$25,000 | \$31,250 |

Special fund expenditures may increase in future years due to personnel expenses to regulate additional licensees. MHIB expects to absorb the additional workload associated with additional licensees with existing resources initially, though an additional inspector could be needed in future years if the number of licensees increases significantly. The bill eliminates the requirement that the board inspect each stable at least every two years, providing the board flexibility to continue inspections with current staffing levels and some reduction in the overall frequency of inspections.

Legislative Services advises that the elimination of the cross-references between the MHIB law and provisions relating to livestock dealers and markets could result in additional license fee revenue overall if any horse operations would need to maintain both a board license and a livestock dealer's license instead of just one license. The extent of how many operations might be affected, however, is unclear, and MDA indicates that the number of affected operations may be minimal at most.

The bill's changes with respect to criminal fines and administrative penalties imposed for violations of the law are not expected to materially affect State finances.

Small Business Effect: Legislative Services generally concurs with MDA's assessment of the small business impact of the bill as minimal or none; however, Legislative Services notes that some additional small businesses will be subject to regulation and/or additional license fees pursuant to the bill. MHIB, however, indicates that being licensed can benefit stables from a marketing perspective and that MHIB also serves as an advocate for those stables.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Office of Administrative Hearings, Maryland Horse Council, Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2012
mm/lgc Revised - Senate Third Reader - March 29, 2012

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Horse Industry Board - Licensing

BILL NUMBER: SB 108

PREPARED BY: Maryland Department of Agriculture

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X 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.