

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

Senate Bill 614 (Senator Klausmeier)
 Education, Health, and Environmental Affairs

Environment - Dental Radiation Machines - Maintenance and Inspections

This bill modifies requirements for the inspection and maintenance of dental radiation machines.

Fiscal Summary

State Effect: Radiation Control Fund expenditures increase by \$175,000 in FY 2014, which reflects the cost of hiring two full-time health physicists to review preventative maintenance compliance reports and one full-time office secretary to provide administrative support. Future year expenditures reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	175,000	191,300	200,100	209,500	219,200
Net Effect	(\$175,000)	(\$191,300)	(\$200,100)	(\$209,500)	(\$219,200)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: Under current law, the Secretary of the Environment may establish a fee of up to \$80 annually to offset the costs of monitoring and regulating sources of radiation within a dental facility. (The fee currently established in regulation is \$80.) However, if a dental 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 by a State inspector. In general, a dental radiation machine may not be inspected more frequently than once every three years.

The bill repeals these provisions and instead requires each dental radiation machine to be maintained in accordance with the manufacturer's recommended maintenance specifications (and by a service provider registered with MDE by the last day of the recommended service interval). If the maintenance schedule is not available from the manufacturer, maintenance must be performed at least annually. In addition, a dental office or facility is required to (1) maintain documentation that the manufacturer's recommended maintenance schedule has been met; (2) maintain a detailed service report; and (3) provide specified information and documentation to MDE within 30 days after maintenance.

Current law specifies that a dental radiation machine may be inspected more frequently than would otherwise be allowed if the department has grounds to believe that a violation or hazard may exist. The bill maintains the authority to inspect a dental radiation machine in these circumstances, but specifies that the department's grounds for believing that a violation or hazard may exist must be reasonable.

Finally, the bill specifies that MDE, rather than a State inspector, is authorized to inspect a dental radiation machine.

MDE's Radiation Machines Division regulates manufactured electronic sources of radiation to minimize the amount of unnecessary radiation exposure received by the general public. These electronic radiation sources include dental and veterinary x-ray machines, mammography (breast imaging) machines, diagnostic and therapeutic radiation machines, and other electronic radiation devices such as security screening devices used in research or industry. State regulations, which derive in part from U.S. Food and Drug Administration statutory requirements, require that all radiation exposures be "As Low As Reasonably Achievable."

When MDE has reasonable grounds to believe that a person has violated the radiation control laws and regulations, it is required to issue a written complaint that specifies the provisions allegedly violated and states the alleged facts that constitute the violation. MDE is also authorized to (1) issue an order that requires the person to whom it is directed to take corrective action within a time set in the order and (2) send a written notice that requires the alleged violator to file a written report and/or appear at a hearing regarding the allegations. If MDE issues such a notice, and after a specified time period, MDE must issue a final corrective order if it determines that a violation has occurred.

MDE is required to take action to secure compliance with any final corrective order and, if the terms of such an order are violated or if a violation is not corrected within the specified time period, sue to require the correction. MDE is also authorized to bring an action for an injunction against violators.

Various administrative, civil, and criminal penalties apply to violations of the State's radiation control laws and regulations. A person who fails, refuses, or neglects to comply with those laws is guilty of a misdemeanor and on conviction is subject to a fine of up to \$25,000 or imprisonment for up to one year, or both. In addition, a person who violates any radiation control provision is liable for a civil penalty of up to \$10,000 to be collected in a civil action in the circuit court for any county; each day is a separate violation. Finally, MDE is authorized to impose an administrative penalty of up to \$1,000 for each violation, up to \$50,000 total, assessed with consideration given to several specified factors; each day is a separate violation.

Preventative maintenance for dental radiation machines is required by regulation.

According to MDE's *FY 2012 Annual Enforcement and Compliance Report*, MDE regulates 2,806 dental facilities and 10,191 dental radiation machines.

State Expenditures: MDE advises that inspection duties are not relieved under the bill, as inspections are still required to be conducted with regard to the nonmachine elements of a dental facility. MDE further advises that it expects to receive (and review) approximately 10,000 preventative maintenance compliance reports annually from dental offices under the bill. Therefore, MDE advises – and the Department of Legislative Services concurs – that additional permanent staffing is needed to handle the high volume of reports.

Accordingly, special fund expenditures increase by \$174,993 in fiscal 2014, which accounts for the bill's October 1, 2013 effective date. This estimate reflects the cost of hiring two full-time health physicists to review preventative maintenance compliance reports and one full-time office secretary to provide administrative support (including scanning, filing, and mailing). It includes salaries, fringe benefits, one-time start-up costs (including a vehicle and computer for each health physicist), and ongoing operating expenses (including travel and communications).

Positions	3
Salaries and Fringe Benefits	\$132,501
One-time Start-up Costs	37,242
Ongoing Operating Expenses	<u>5,250</u>
Total FY 2014 State Expenditures	\$174,993

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: HB 625 (Delegates S. Robinson and Malone) - Environmental Matters.

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

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