

**Department of Legislative Services**  
Maryland General Assembly  
2022 Session

**FISCAL AND POLICY NOTE**  
**Enrolled - Revised**

Senate Bill 496

Finance

(Senator Beidle)

Economic Matters

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**Business Regulation - Miscellaneous State Business Licenses - Alterations**

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This bill updates, clarifies, and alters numerous provisions governing miscellaneous State business licenses under Title 17 of the Business Regulation Article, including provisions related to (1) licensing materials issued to circuit court clerks by the Comptroller; (2) distribution of licensing fees; (3) application requirements for new and renewed licenses; (4) late fees; and (5) the effective date of licenses. The bill repeals obsolete provisions of law for the licensure of amusement devices, wholesale farm machinery dealers, plumbers and gas fitters, and trading stamp issuers. The bill also alters numerous provisions relating to other specific types of licenses, including construction licenses, peddler licenses, junk dealer licenses, laundry and dry cleaner licenses, storage warehouse licenses, restaurant licenses, chain store licenses, trader's licenses (including yacht sales), and vending machine licenses. The bill makes other conforming changes.

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**Fiscal Summary**

**State Effect:** General fund revenues likely decrease minimally due to issuing fewer licenses and reducing certain fees, but a reliable estimate is not feasible, as discussed below. Overall, the bill's provisions are generally clarifying, procedural, and technical in nature and also conform statute to current practice. Therefore, they are not expected to have a material effect on State finances or operations.

**Local Effect:** Local government revenues likely decrease minimally due to issuing fewer licenses and reducing certain fees, as discussed below. Local government finances or operations are not otherwise materially affected.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Bill Summary/Current Law:** Under current law, licensing revenues under Title 17 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. The bill simplifies provisions related to the distribution of fee revenue; it does not alter the distribution in current law.

### *Licensing Materials Issued by the Comptroller to Circuit Court Clerks*

The bill specifies that the Comptroller must make all license materials, including stickers, available to the clerks by April 1 each year. Accordingly, the bill repeals provisions related to the issuance and reporting of paper-based licenses to reflect the use of electronic licensing.

### *Distribution of License and Issuance Fees*

The bill clarifies provisions related to the distribution of the license fees received for licenses issued by clerks of the court but does not alter the overall distribution of those fees. Each clerk must generally pay into the State general fund the percentage of license fees authorized under § 2-213 of the Courts and Judicial Proceedings Article, along with 3% of license fees to defray the expenses of the State license bureau. The bill requires a clerk to distribute the remaining license fees to the municipal corporation or county where the licensed business or activity is located, as specified, and to pay all issuance fees into the State general fund.

### *Application Requirements for New and Renewed Licenses*

The bill alters provisions specifying the documentation that an applicant for a new license must submit to a clerk. The bill specifies that applicants for a new trader's license in a county or municipality that has not selected a uniform license fee, as specified, must submit to the clerk a certification by the State Department of Assessments and Taxation (SDAT), or other acceptable certification, of the value of the stock-in-trade reported as inventory on the business personal property tax return in each county where the business is located for the appropriate valuation year.

The bill also specifies that a licensee applying for a renewal of a license must submit to the clerk, electronically or otherwise, a certification by the county treasurer that there are no unpaid taxes due to the State or county on the fixtures or stock-in-trade and payment of the appropriate license fee required. The bill specifies that if a licensee is applying to renew a trader's license, the licensee must submit to the clerk a certification by SDAT, or other acceptable certification, of the value of the fixtures and stock-in-trade reported as inventory

on the business personal property tax return in each county where the business is located for the appropriate valuation year. The bill also generally requires a licensee applying for renewal of a license to submit to the clerk, electronically or otherwise, a certification by the Comptroller, a county treasurer, and a municipal corporation (as applicable) that there are no unpaid taxes due to the State, county, or municipal corporation, as specified. The bill specifies that the valuation year (in every county other than Washington County) is the second preceding calendar year before the year for which the license is sought. Each application for a license must also contain any information required by the Comptroller in regulation.

#### *Late Fees and Other Issuance Fees*

Under current law, a person who must have a license but does not get the license on time must pay to the clerk, in addition to the required license fee, a late fee. The bill specifies that a late fee may not exceed 30% of the required license fee for the license year. The bill requires the Comptroller to charge an issuance fee for each license that is issued or transferred.

#### *Effective Date of Licenses*

Under current law, a license is generally effective on May 1, but whenever a person begins business after May 31, the clerk must issue a license that is effective on the first of the month when the person begins business under the license. The bill specifies that licenses for businesses beginning after May 31 are effective on the date of issuance.

#### *Construction Licenses*

The bill specifies that a construction license or nonresident construction license authorizes the licensee to do construction business in the State, and that to “do construction business” does not include home improvement as defined under § 8-101 of the Business Regulation Article. The bill (1) specifies that a person who is incorporated or has its principal office in another state must have a nonresident construction license in addition to any other license required by law whenever doing construction business in Maryland; (2) repeals a provision requiring an additional nonresident construction license for each contract to do construction business in Maryland if the gross amount of the contract exceeds \$1,000; and (3) repeals a provision under current law providing that a nonresident construction license is not required if the other relevant state does not require a similar license for a Maryland contractor doing construction business in that state. In addition, the bill requires a construction license (or a nonresident construction license) to be issued in the county where the construction business has its principal place of business (or first does construction business in the State, in the case of a nonresident). The bill sets the fees for nonresident

construction licenses as equal to the fees for construction licenses, depending on the issuing county, as specified.

#### *Peddler Licenses*

The bill specifies that a clerk must provide a metal tag and license sticker to each peddler who holds a peddler license, and a license sticker to each peddler who renews a peddler license, as defined. The bill requires each peddler to possess the metal tag and license sticker at all times that the individual is acting as a peddler; a one-horse, two-horse, or motor vehicle peddler must keep the metal tag and license sticker attached to the relevant vehicle. The bill repeals numerous county-specific provisions relating to peddlers.

#### *Junk Dealer and Scrap Metal Processor Licenses*

The bill eliminates the disparity between license fees for resident and nonresident applicants for a junk dealer or scrap metal processor license; however, the bill specifies that if a nonresident establishes a fixed place of business in the State, the nonresident must obtain a (resident) junk dealer or scrap metal processor license and comply with all related laws and regulations. The bill also clarifies that all license fees collected for issuance of State junk licenses must be paid to the Comptroller.

#### *Laundry and Dry Cleaner Licenses*

The bill clarifies that this type of license relates to professional cleaning, dyeing, pressing, or laundering *on-site at the location stated on the license*.

#### *Storage Warehouse Licenses*

The bill clarifies that all license fees for storage warehouse licenses must be paid to the Comptroller. The bill further specifies that “storage warehouse” means a building or structure used for keeping goods for a fee. The bill also clarifies that the license fees for a storage warehouse license depend upon the population of the municipal corporation *or county* in which a storage warehouse is located. The bill eliminates certain provisions relating to the written notice that a moving and storage firm or warehouse must provide to a buyer recommending that the buyer purchase insurance to protect against loss of goods.

#### *Restaurant Licenses*

Currently, a person must have a restaurant license whenever the person operates a restaurant or other eating place in the State. Under the bill, “restaurant” means an establishment that (1) accommodates the public; (2) provides seating; and (3) is equipped

with facilities for preparing and serving food. The bill further specifies that a licensed restaurant is not required to also have a trader's license (described in more detail below).

#### *Chain Store Licenses*

The bill maintains the general requirement under current law that a person must have a chain store license and a trader's license whenever the person operates two or more retail stores under the same general management or ownership in the State. The bill specifies that "general management or ownership" means a common or shared management, supervision, or ownership of more than one retail store, regardless of corporate form, purpose, or structure. The bill also requires an applicant for a chain store license to pay to the clerk a license fee based on the number of locations in the State, as specified; similar to current law, fees vary in Baltimore City, Baltimore and Cecil counties.

#### *Trader Licenses*

The bill extends the annual deadline, from October 1 to December 1 of each year, by which the governing body of a county or municipal corporation may select a uniform license fee for a trader's license, instead of a sliding scale.

The bill repeals a provision under current law specifying that a manufacturer located and doing business in the State may generally sell and deliver goods to licensed traders in the State without needing a license from, or paying a fee to, a local jurisdiction. The bill establishes that (1) a separate trader's license is required for each mobile place of business that operates exclusively in one fixed location in the State and (2) each mobile place of business that operates in more than one location in the State requires a trader's license and a peddler's license. The bill defines "mobile place of business" as a place of business located in a truck, trailer, or other vehicle and not in a building or other fixed structure.

In determining the value of an applicant's stock-in-trade, a clerk must currently accept as *prima facie* evidence the values shown on the required SDAT certification. The bill provides that a clerk may also accept as *prima facie* evidence the values shown on the declaration of inventory from the applicant.

The bill maintains the current requirement that each clerk indicate on each trader's license the place where the licensed trader may do business as a trader. The bill provides that a trader may keep a place of business only at the place stated on the trader's license, and thereby eliminates a provision under current law stating that a trader's license generally authorizes the holder to offer goods for sale in any part of the State. The bill eliminates a 50-cent fee for transferring a trader's license and imposes other county-specific requirements relating to a trader's license.

### *Yacht Sales*

Currently, a licensed trader who sells yachts may, at the trader's option, use as an independent contractor, employ, or otherwise contract with a yacht salesperson. A yacht salesperson may operate under a trader's license and is not required to be licensed personally. Current law further requires a licensed trader to exercise reasonable and adequate supervision over the provision of yacht brokerage services by a yacht salesperson on behalf of the trader, regardless of the manner in which a yacht salesperson is affiliated with the trader. The bill repeals these provisions relating to yacht sales.

### *Vending Machine Licenses*

The bill requires all vending machine license fees to be paid to the Comptroller. The bill also makes alterations and conforming changes to the provisions governing the license stickers that must be attached to vending machines.

### *Select Definitions and Other Generally Applicable Provisions*

“Goods” means tangible personal property, items of trade, merchandise, or other types of products sold at wholesale or retail.

“Sale” means the exchange or transfer, or the agreement to change or transfer, title or possession of goods in any manner for consideration and includes barter.

“Stock-in-trade” means (1) goods held for sale and reported as inventory on the business personal property tax return filed with SDAT or (2) except for alcoholic beverages, goods held for sale and reported as inventory on the business personal property tax return filed with SDAT for determining the valuation of a trader's license, as specified.

The bill also generally specifies that Title 17 of the Business Regulation Article applies to a person who is engaged in a for-profit business and does not apply to a person who is engaged in a not-for-profit business or a tax-exempt business, or a governmental unit.

**State/Local Revenues:** The bill makes various changes to licensing requirements and fees that may affect general fund revenues. For instance, it reduces fees for nonresident construction licenses and nonresident junk dealers and scrap metal processors to be equal to those for resident licenses. In addition, counties that currently require restaurants to have both a restaurant license and a trader's license issue fewer traders' licenses under the bill. A reliable estimate of the extent to which revenues may decrease as a result of issuing fewer licenses or reducing fees is not feasible at this time; overall, the bill's changes to licensing requirements and fees are expected to be minimal, and thus have no material effect on general fund or local revenues.

**Small Business Effect:** Small businesses may be meaningfully impacted by changes to licensing requirements and fees, as well as by administrative demands and efficiencies associated with meeting the bill's licensing requirements.

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## Additional Information

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Garrett, Harford, and St. Mary's counties; Alcohol and Tobacco Commission; Comptroller's Office; Governor's Office of Crime Prevention, Youth, and Victim Services; Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; State Department of Assessments and Taxation; Department of Legislative Services

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