

Department of Legislative Services  
 Maryland General Assembly  
 2013 Session

FISCAL AND POLICY NOTE

House Bill 793  
 Economic Matters

(Delegate Hucker)  
 Education, Health, and Environmental Affairs

**Environment - Asbestos Occupation - Training Program and Examination**

This bill alters the definition of an “independent testing organization” for purposes of asbestos occupation accreditation by specifying that an independent testing organization does not provide a training program. The bill authorizes a “business entity” to provide a training program, but prohibits a business entity that provides a training program from also administering an asbestos occupation examination. Thus, the bill effectively separates the training and testing functions of the asbestos occupation.

**Fiscal Summary**

**State Effect:** General and/or special fund expenditures increase by \$24,000 in FY 2014 only for the Maryland Department of the Environment (MDE) to ensure that asbestos occupation examinations are validated. Although this analysis assumes that a business entity administers the exams, if MDE is required to do so, special fund expenditures increase further but are offset by special fund revenues from exam fees.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	24,000	0	0	0	0
Net Effect	(\$24,000)	\$0	\$0	\$0	\$0

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

**Local Effect:** The bill is not anticipated to materially affect local operations or finances.

**Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:** Unless accredited by MDE, an individual may not engage in an asbestos occupation. Chapters 278 and 279 of 2012 (SB 649/HB 1262) altered the accreditation requirements by specifying that an individual must (1) be at least age 18; (2) successfully complete a training program and any required refresher program approved by the U.S. Environmental Protection Agency (EPA), or acquire and maintain current accreditation from an EPA-approved state accreditation plan of another state; and (3) pass an applicable asbestos occupation examination provided and administered by MDE or an independent testing organization acting on behalf of MDE.

Chapters 278 and 279 defined a “business entity” as any person designated to manage or supervise the removal or encapsulation of asbestos. The Acts defined an “independent testing organization” as an entity that is not in any way affiliated with a business entity that employs an individual to remove or encapsulate asbestos in Maryland.

**Background:** According to MDE, asbestos is a naturally occurring mineral found in certain rock formations, mined from open pit mines. Most of the asbestos used in the United States today comes from Canada. Three types, chrysotile, amosite, and crocidolite, are most commonly found in the United States. The short, thin asbestos fibers released into the air are a hazard to persons who breathe in these fibers. There is no known safe level of exposure for persons who work with asbestos or may be in the same area as an asbestos project. Asbestos is also a hazardous air pollutant that is regulated by Maryland and the federal government. The State regulates how persons work with asbestos and also regulates those who train persons to work with asbestos. EPA regulations cover four asbestos activities: (1) the removal, repair, or encapsulation of asbestos-containing materials; (2) the approval of asbestos training providers; (3) the regulation of persons accredited to perform asbestos-related activities; and (4) asbestos in schools.

Under an agreement with the federal Occupational Safety and Health Administration, the Maryland Occupational Safety and Health (MOSH) Division of the Department of Labor, Licensing, and Regulation promotes occupational safety, including regulation of asbestos for the protection of workers. Thus, MOSH carries out federal worker protection standards relating to asbestos as well as supplemental State standards for asbestos protective clothing, which functions in concert with MDE to protect workers from asbestos.

**State Fiscal Effect:** According to MDE, by separating the training and testing functions, the bill effectively requires the establishment of a testing program to either be administered by an outside entity or by MDE directly.

### *Development and Validation of Tests*

Regardless of who administers the tests, MDE needs to develop 12 different tests (1 for each of the categories of asbestos occupation accreditations) and have the tests validated by a professional organization. MDE estimates that the one-time cost to validate each of the 12 different examination categories is about \$2,000, or \$24,000 total. Thus, general and/or special fund expenditures increase by \$24,000 in fiscal 2014 for MDE to contract with an organization to handle the evaluation and validation of each test. The Asbestos Worker Protection Fund, established by Chapters 278 and 279 of 2012, consists of asbestos removal related fines and penalties. MDE advises that the fund does not have a balance. Therefore, general funds may be necessary to the extent special funds are not available to cover the costs to validate the tests.

### *Exam Administration*

This analysis assumes that a business entity administers the exams. However, if no private service is available, then MDE would need to do so. To administer about 200 exams per year for about 4,600 examinees, MDE would need to hire a contractual position and lease space for testing, at a cost of \$42,810 in fiscal 2014, which reflects the bill's October 1, 2013 effective date, and by more than \$50,813 annually thereafter until an agreement with at least one private testing entity is reached. This estimate includes a salary, fringe benefits, and equipment and operating costs.

Although revenues are not directly affected by the bill, if MDE is required to administer the exams, MDE's special fund revenues increase from exam fees. Under current law, MDE is required to set reasonable fees sufficient to cover its direct and indirect costs in administering the asbestos occupation examination. Thus, any increase in special fund expenditures to administer the exams would be offset by special fund revenues from exam fees.

### *State Agencies as Employers of Asbestos Occupation Workers*

MDE advises that some State employees are engaged in the removal of asbestos and may be affected by the bill's changes. Any increase in State expenditures for the training or testing of State employees is anticipated to be negligible, however.

**Small Business Effect:** The bill may have a meaningful adverse impact on any small business entity that currently provides both asbestos worker training and testing services, as these businesses will no longer be able to charge for both services. In addition, because many asbestos occupation workers are employed by small businesses, some

small businesses may incur minimal increases in costs related to training or testing. Finally, MDE advises that as a result of the bill, there could be a lapse between when workers are trained and when they can take the exam, which could negatively impact the businesses that employ affected workers.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 762 (Senator Ramirez) - Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland Department of the Environment; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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