

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 548 (Senator Pugh)
Education, Health, and Environmental Affairs

**Barbers and Cosmetologists - Criminal Penalties for Practicing Barbering or
Cosmetology Without License - Repeal**

This bill repeals the criminal penalties for violating barbering or cosmetology laws.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations, as discussed below.

Local Effect: The bill does not materially affect local government finances or operations, as discussed below.

Small Business Effect: Minimal. The respective State boards continue to be authorized to impose civil penalties of up to \$1,000 for violations of applicable laws.

Analysis

Current Law: Generally, a person may not practice, attempt to practice, or offer to practice barbering in the State unless licensed by the State Board of Barbers to practice barbering. An identical prohibition applies to barber-stylist services. Limited exceptions exist for a student practicing barbering or barber-stylist services, a registered apprentice, or a person authorized by the board under special circumstances.

Generally, a person may not practice, attempt to practice, or offer to practice cosmetology in the State unless licensed by the State Board of Cosmetology to practice cosmetology.

Limited exceptions exist for an individual operating under a limited esthetician, hairstylist, or nail technician license, a student while practicing cosmetology, or a registered apprentice.

For both barbering and cosmetology, the law sets out the scope of the licenses, establishes a licensing process, and prohibits specified acts (such as misrepresentation to the public as either a barber or cosmetologist).

Violation of either the barbering or cosmetology laws is a misdemeanor and subject to a maximum penalty of a \$100 fine and/or 30 days imprisonment. In addition, the appropriate board may impose a civil penalty of up to a \$1,000 fine for all violations cited on a single day. In determining the amount of the civil penalty, the board must consider the seriousness of the violation, the harm caused by the violation, the good faith of the violator, any history of previous violations by the violator, and any other relevant factors. Any penalty revenue from either board's citation accrues to the general fund.

Background: The State Board of Barbers regulates and licenses barbers, and the State Board of Cosmetologists regulates and licenses cosmetologists. In December 2015, the State Board of Barbers had 6,316 licensees, and the State Board of Cosmetologists had 49,624 licensees.

State/Local Fiscal Effect: The Department of Labor, Licensing, and Regulation advises that its practice has been to pursue civil, not criminal, penalties for violating barbering or cosmetology laws, which is consistent with the information provided by the Judiciary (Administrative Office of the Courts). Therefore, there is no material effect on general fund revenues or expenditures due to the repeal of the criminal penalties.

Likewise, local government expenditures are not materially affected. Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence.

Additional Information

Prior Introductions: None.

Cross File: HB 293 (Delegate Moon, *et al.*) - Economic Matters.

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

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