

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 35 (Senator Colburn)
Education, Health, and Environmental Affairs

Department of Natural Resources - State Boat Act - Auctioneers

This bill exempts auctioneers whose primary business is not the sale of vessels from the State Boat Act.

Fiscal Summary

State Effect: The bill is not anticipated to have a significant impact on State finances. However, to the extent license fees decrease and boat excise taxes are not collected, special fund revenues decrease minimally.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law/Background: The State Boat Act, enacted in 1960, governs boating in the State. The Department of Natural Resources (DNR) Natural Resources Police enforce the law and its regulations. Any revenue DNR collects under the State Boat Act must be deposited in the State Treasury and used exclusively for the administration, functions, and objectives of the State Boat Act. These funds are credited to DNR.

A boat dealer license is required to engage in the business of buying, selling, or exchanging vessels in Maryland. A “dealer” is any person who (1) engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels or used vessels, or both, either outright or on a conditional sale, bailment, lease, chattel mortgage, or otherwise; and (2) has an established place of business for sale, trade, and display of vessels. In addition, a “dealer” is a yacht broker and a holder of a specified lien who sells

the vessel pursuant to a provision of law, including an auctioneer and a company commonly known as a lien and recovery company.

Prior to DNR issuing a boat dealer's license, applicants are required to submit evidence of a bond or other security. This bond is for the use and benefit of DNR and any individual who sustains any loss due to a violation of the State Boat Act by the licensee or the licensee's agent or employee. DNR may also use the bond to recover any penalty and interest charged to the licensee based on failure to pay the fees or taxes received by the applicant.

A licensed boat dealer is required to collect the excise tax on all sales of vessels to be titled and numbered and on all sales of vessels to be federally documented for use in the State. Boat dealers are required to pay a license fee that may not exceed \$25 to DNR as well as a \$25 annual fee for renewal of the license.

State Fiscal Effect: The bill is not anticipated to have a significant impact on State operations or finances. While the number of boat dealer licenses the bill exempts is unknown, it is anticipated to be minimal. To the extent businesses are no longer required to purchase the \$25 annual license fee and boat excise taxes are not collected, DNR special fund revenues decrease.

Small Business Effect: The bill exempts specified auctioneers from State Boat Act licensing requirements. To the extent these auctioneers are small businesses, they are relieved of the requirement to secure a \$25 license, post a bond or other security, and collect the boat excise tax.

Additional Comments: DNR advises the bill would be difficult to enforce because it does not define what constitutes a "primary business" for an auctioneer. For example, "primary business" could be defined as individuals who offer to sell three or more vessels during any 12-month period. DNR notes that motor vehicle dealers are generally defined in law as individuals who offer to sell three or more vehicles during any 12-month period.

Additional Information

Prior Introductions: SB 324 of 2009 passed the Senate and received a hearing in the House Environmental Matters Committee, but no further action was taken. Its cross file, HB 1528, received a hearing in the House Environmental Matters Committee, but no further action was taken.

Cross File: HB 46 (Delegate Sossi) - Environmental Matters.

Information Source(s): Department of Natural Resources, Office of the Attorney General, Department of Legislative Services

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