

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** Thelma Drake

2. **Bill Number** HB 461

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Business, Professional and Occupational License Tax; Rates, Fees, Exemptions and Passing-on the Tax to Purchasers

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would change the structure of the local Business, Professional and Occupational License (BPOL) tax by (a) changing the \$50,000 and \$100,000 thresholds for license taxation in certain localities to an exemption; (b) lowering the maximum rate for each of the four business categories by five cents; (c) lowering the maximum license fee that may be imposed on businesses that begin business in the last six months of the license year from \$50 to \$25; and (d) allowing all businesses to separately state the amount of and add the BPOL tax applicable to each sale to the sales price.

The changes set forth in this bill would be applicable to taxable years beginning on or after January 1, 2005.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

To the extent that businesses decide, based on their competitive and business environment, to increase their sales price by the amount of the separately stated BPOL tax, thereby increasing the sales price to consumers, there would be an unknown increase in state and local sales tax collections. Additionally, to the extent that businesses increase their prices, their gross receipts will increase, thus increasing local BPOL tax revenues by a minimal amount.

Approximately 39 cities, 121 towns, and 53 counties impose some form of BPOL tax or fee. In fiscal year 2002, the BPOL taxes and fees generated more than \$434.4 million for the localities that imposed them. As detailed data is not available for estimating the effect of changing the thresholds for license taxation to exemptions, lowering the maximum rates and lowering the maximum license fee that may be imposed on businesses that begin business in the last six months of the license year, the impact of this bill to local revenues is unknown. While unknown, the potential revenue loss to localities from these changes may be significant.

9. Specific agency or political subdivisions affected:

All localities that impose a BPOL tax or fee.

10. Technical amendment necessary: No.

11. Other comments:

Background on the BPOL Tax

The Business, Professional and Occupational License (BPOL) tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The measure or basis of the BPOL tax generally is the gross receipts of the business. The BPOL tax is a tax on gross receipts, not net income.

Current BPOL Fee

Under current BPOL law, any locality may charge a license fee in an amount not to exceed:

- \$100 for any locality with a population greater than 50,000
- \$50 for any locality with a population of 25,000 but no more than 50,000
- \$30 for any locality with a population smaller than 25,000

The locality may not assess a license tax on gross receipts upon which it charges a license fee.

Current BPOL Tax

Under current BPOL law, localities may not impose a license tax on a business with gross receipts:

- less than \$100,000 in any locality with a population greater than 50,000
- less than \$50,000 in any locality with a population of 25,000 but no more than 50,000.

Any business with gross receipts in excess of these thresholds may be subject to license tax at a rate not to exceed the rates set forth below:

- Contracting - sixteen cents per \$100 of gross receipts
- Retail sales - twenty cents per \$100 of gross receipts
- Financial, real estate and professional services - fifty-eight cents per \$100 of gross receipts
- Repair, personal and business services, and all other businesses - thirty-six cents per \$100 of gross receipts.

Localities that imposed a higher rate structure on January 1, 1978 are allowed to continue to impose the tax at those rates.

Proposal

This bill would change the \$50,000 and \$100,000 thresholds for license taxation in certain localities to an exemption. Businesses in these localities would pay a BPOL tax only to the extent that their gross receipts exceed these amounts.

The maximum license tax rate for each of the four business classifications would be lowered by five cents. The maximum license fee that may be imposed on businesses that begin business in the last six months of the license year would be lowered from \$50 to \$25.

This bill would allow all businesses to separately state the amount of the BPOL tax and add such amount of tax applicable to each sale to the sales price. Under current law, automobile dealers are the only businesses with an explicit statutory authorization to pass-on the BPOL tax to their customers as a specific line item in the amount of the sales price. On transactions subject to the sales tax, the sales tax would be based on the total sales price, including the amount of the BPOL tax.

Other Legislation

HB 91 would change the structure of the BPOL tax to require that all counties, cities and towns (a) eliminate the license fee; (b) exempt businesses with gross receipts of less than \$100,000 from the license tax; and (c) impose a rate not to exceed twenty cents per \$100 on all businesses with gross receipts in excess of \$100,000. HB 91 would also impose the new structure on those localities that currently operate under a grandfather provision that allows them to maintain a higher rate structure if it was in effect on January 1, 1978.

cc : Secretary of Finance