

# Tax Alert



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## Changes to Miscellaneous State Business Licenses in 2022 Senate Bill 496

This alert explains the impact of 2022 Senate Bill 496, Business Regulation – Miscellaneous State Business Licenses, on licensees and the County Clerks who issue the licenses. This is not a comprehensive summary of the bill, but a brief guide to some impactful provisions.

### Introduction

In 2022, the Maryland General Assembly passed Senate Bill 496. The bill was proposed by the Maryland Circuit Court Clerk's Association for the purpose of modernizing and updating business licenses for the State to reflect today's modern technology and practices.<sup>1</sup>

Language was updated to allow electronic processes, repeal certain little-used licenses,<sup>2</sup> and clarify language excluding nonprofits and government entities from the licensing requirements. The Comptroller is required to make license materials available to the Clerks on or before April 1 each year.

Specific changes to certain licenses are described below.

<sup>1</sup>[https://mgaleg.maryland.gov/mgawebbsite/Committees/Media/false?cmte=fin&vs=2022RS&clip=FIN\\_2\\_24\\_2022\\_meeting\\_1&url=https%3A%2F%2Fmgahouse.maryland.gov%2Fmga%2Fplay%2Ffcb4fb7-3d50-43e6-830a-36c5877055a8%3Fcatalog%2F03e481c7-8a42-4438-a7da-93ff74bdaa4c%26playfrom%3D111080](https://mgaleg.maryland.gov/mgawebbsite/Committees/Media/false?cmte=fin&vs=2022RS&clip=FIN_2_24_2022_meeting_1&url=https%3A%2F%2Fmgahouse.maryland.gov%2Fmga%2Fplay%2Ffcb4fb7-3d50-43e6-830a-36c5877055a8%3Fcatalog%2F03e481c7-8a42-4438-a7da-93ff74bdaa4c%26playfrom%3D111080)

<sup>2</sup> The licenses eliminated are the licenses for console machines, pinball machines, amusement devices, billiard tables, juke boxes, wholesale farm machinery dealers, plumbers, and trading stamp issuers.

## Additional Details

**Nonresident construction businesses** are now required to get a license in only in the first county where they do construction business in the state in that year. Additional licenses for each contract are no longer required.<sup>3</sup>

**Storage warehouses** must obtain a storage warehouse license. Self-storage warehouses are excluded from this requirement.<sup>4</sup> A self-storage warehouse is not required to obtain a storage warehouse license.

Generally, a person who does business as a **trader** or exhibitor in the State must have a trader's license. **Mobile places of business** operating in more than one location must also have a peddler's license.<sup>5</sup>

- In **Anne Arundel, Baltimore, Calvert, Cecil, Howard, Montgomery, and Prince George's** counties, a trader's license issued to a peddler authorizes the holder of the trader's license to act as a peddler, but only in the county where the trader's license was issued.<sup>6</sup>
- In the counties named above, a peddler with a trader's license does not need an additional **State** peddler's license. Each county named has its own licensing requirements for peddlers, hucksters, and other itinerant businesses with no fixed location.
- A peddler's license is required in **Calvert County**, however, if the person sells vegetables, eggs, poultry, meats, or other farm products, dry goods, or clothing.<sup>7</sup>

**Restaurants** are defined as an establishment that “(1) accommodates the public; (2) provides seating; and (3) is equipped with facilities for preparing and serving food.”<sup>8</sup>

- **Restaurants**, except restaurants in Montgomery County, must obtain a **restaurant license**.<sup>9</sup>
- **Restaurants**, except restaurants in Montgomery County, are not required to obtain a **trader's license**.<sup>10</sup>
- Restaurants in **Montgomery County** are not required to have a restaurant license.<sup>11</sup>
- Restaurants in **Montgomery County** are required to have a trader's license.<sup>12</sup>

**Chain stores** are two or more retail stores operated under common or shared management, supervision, or ownership, regardless of corporate form, purpose, or structure.<sup>13</sup>

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<sup>3</sup> Business Regulation § 17-602(c)(2), Maryland Code Annotated

<sup>4</sup> Bus. Reg. § 17-1201(b)

<sup>5</sup> Bus. Reg. § 17-1803(c)

<sup>6</sup> Bus. Reg. §§ 17-1808(c), 17-905(a)

<sup>7</sup> Bus. Reg. § 17-917(a)

<sup>8</sup> Bus. Reg. § 17-1601(b)

<sup>9</sup> Bus. Reg. § 17-1603

<sup>10</sup> Bus. Reg. § 17-1803(d)(4)

<sup>11</sup> Bus. Reg. § 17-1602

<sup>12</sup> Bus. Reg. § 17-1803(a)

<sup>13</sup> Bus. Reg. § 17-17A-01(b), (c)

- Chain stores must obtain a **chain store license**.<sup>14</sup>
- Chain stores are also required to have a **trader's license** for each store.<sup>15</sup>
- **Chain restaurants** are covered by the definition of “restaurants,”<sup>16</sup> and are not chain stores. Chain restaurants are not required to obtain a chain store license.
- **Gas stations** are not required to obtain a chain store license, even if they would otherwise meet the definition of a chain store.<sup>17</sup>

### Restaurants that are also traders; Traders that also sell food

Generally, a person doing business in the state must have a trader's license, unless otherwise provided by law. Senate Bill 496 created a new definition for restaurants,<sup>18</sup> and specifically exempted restaurants from the requirement to obtain a trader's license.<sup>19</sup> It is the Comptroller's interpretation that a business that meets the definition of a restaurant is not required to have a trader's license, even if it happens to also sell goods<sup>20</sup> at wholesale or retail.

Likewise, a trader<sup>21</sup> who happens to sell some food items but who does not accommodate the public, provide seating, and is not equipped with facilities for preparing and serving food is not a restaurant, does not require a restaurant license, but must have a trader's license.

The Comptroller is authorized to adopt regulations to carry out its licensing duties and to define any licensing term.<sup>22</sup> The Comptroller may, in the future, adopt regulations on licensing requirements for mixed restaurant/trader businesses, or any other licensing matter, that alter the guidance given in this Tax Alert.

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<sup>14</sup> Bus. Reg. § 17-17A-03

<sup>15</sup> Bus. Reg. § 17-17A-03

<sup>16</sup> Bus. Reg. § 17-1601(b)

<sup>17</sup> Bus. Reg. § 17-17A-02

<sup>18</sup> “an establishment that (1) accommodates the public; (2) provides seating; and (3) is equipped with facilities for preparing and serving food.” Bus. Reg. § 17-1601(b).

<sup>19</sup> Bus. Reg. § 17-1803(d)(4)

<sup>20</sup> “Goods” are tangible personal property, items of trade, merchandise, or other types of products sold at wholesale or retail. Bus. Reg. § 17-101(b)

<sup>21</sup> A “trader” is a person who operates a room or other place of business for selling goods. Bus. Reg. § 17-101(g)

<sup>22</sup> Bus. Reg. § 17-202(f)