



SPONSOR: Rep. Gilligan  
Reps. B. Ennis, Houghton, Keeley,  
Plant, Williams

HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO PENALTIES FOR FAILURE TO OBTAIN BUSINESS LICENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:  
(Three-Fifths of all members elected to each house thereof concurring therein):

1           Section 1. Amend § 534, Title 30 of the Delaware Code, by adding to said section a new  
2 subsection (1) to read as follows:

3           “(1) In the case of failure of any person to obtain or renew a business license  
4 required under the provisions of Part III of Title 30 of the Delaware Code, unless it is  
5 shown that such failure is due to reasonable cause and not due to willful neglect, there  
6 shall be added to the amount of the business license fee required to be paid a penalty in  
7 the amount of \$200. Whenever a penalty has been proposed for assessment under this  
8 subsection, the Director shall not be required to issue a business license to the taxpayer to  
9 whom such assessment has been proposed unless and until the taxpayer has paid any  
10 license fee necessary for issuance of such license and has either: (1) paid the assessment  
11 provided under this subsection (subject to any claim for refund); or (2) filed a written  
12 protest regarding such assessment of penalty pursuant to § 523. The penalty described in  
13 this subsection shall not be assessed in the instance of self-disclosure by a taxpayer of  
14 delinquency in meeting the licensing requirements of Part III. The penalty described in  
15 this subsection shall, only with respect to the same failure to obtain or renew a license

16 and not with respect to failure to pay taxes on gross receipts or any other acts or  
17 omissions, be in lieu of the penalty described in subsection (a) of this section, except  
18 where such penalty determined under subsection (a) shall exceed the penalty determined  
19 under this subsection, in which event subsection (a) shall apply, and this subsection shall  
20 not apply.”

21 Section 2. This Act shall be effective July 1, 1999, or thirty days after its enactment into  
22 law, whichever shall be later.

#### SYNOPSIS

This bill provides a penalty of \$200 for failure to obtain or renew a business license. The penalty would not apply when the failure to do so was self-disclosed. A license would not be required to be issued until the license fee plus the penalty is paid, unless the penalty is protested in accordance with law. Under current law the penalty is 5% of the license fee (typically \$75) prorated according to the number of months remaining in the year. At most, under those circumstances, the current penalty would be \$3.75 for an unlicensed business detected in January. In the case of a few categories of business (for example, hotels or motels with more than 160 rooms), the current 5% penalty would exceed the proposed \$200 penalty. In these cases, the penalty remains at 5%.