SPONSOR: Rep. Longhurst & Sen. Blevins
Reps. Atkins, Bennett, Brady, Heffernan, Hudson, Q. Johnson, Kowalko, Mulrooney, Osienski, Peterman, Ramone, Schooley, Schwartzkopf, Scott, B. Short, D. Short, Viola, Walker, D.E. Williams, Willis; Sens. Bushweller, Ennis, Hall-Long

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE BILL NO. 251

AN ACT TO AMEND TITLES 7 AND 30 OF THE DELAWARE CODE RELATING TO OCCUPATIONAL LICENSES AND FEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2301(a), Title 30 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

(a) "Persons" as defined in § 2701 of this title engaged in the occupations listed and defined in this section shall pay annual license taxes at the rates specified below. In addition to the license fee indicated below, each such person shall pay a fee of $25 for each additional branch or business location, except that a finance or small loan agency as defined in paragraph (a)(9) of this section shall pay the basic annual fee for each place of business.

(1) Advertising agency, $75. “Advertising agency " includes every person engaged in the business of displaying advertising matter by billboards, posters or circulars, signs or window display, or of undertaking the writing or composition of advertisements for other persons on a commission, rental or flat fee basis.

(2) Amusement conductor, $75. "Amusement conductor" includes every person engaged in the business of conducting or maintaining or furnishing on a commission or other basis mechanical or electronic devices for entertainment of the general public, for which a charge is made for the use thereof; provided further than an owner of certain of such mechanical or electrical devices operated automatically by insertion of a coin or token shall pay an additional license fee for the business as defined and at the rates prescribed as follows:

"Amusement machine owner" embracing every person engaged in the business of owning and operating either on the person's own account or by an agent, or by lease to another from such person or the agent, certain of the mechanical or electronic devices referred to in this section for furnishing to the public, music by the playing of records or transcriptions or which constitute a game or other device designed for public amusement, a fee for a license at the rate of $75 for each machine so owned and operated, provided the coin or token necessary to operate such machine is worth 5 cents or more.

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(3) Auctioneer, $75. "Auctioneer" includes every person engaged in the business of crying sales of real or personal property on behalf of other persons for profit, except as otherwise provided by the provisions of this chapter. Any auctioneer not a citizen of this State shall be required to pay $225 for each county in which the person acts as auctioneer. No auctioneer shall be authorized by virtue of the license granted to employ any other person to act as auctioneer in the auctioneer's behalf, except in the auctioneer's own store or warehouse or in the auctioneer's presence, nor shall the term "auctioneer" apply or extend to a judicial or executive officer making sales in pursuance of any execution, judgment, or decree of any court nor to public sales made by executors or administrators.

(4) Broker, $75. "Broker" includes every person operating a business of buying and selling for the account of other persons for a commission or for profit, stocks, bonds, currency, negotiable paper, securities and any other intangible personal property.

(5) Circus exhibitor, $750. "Circus exhibitor" includes every person engaged in the business of exhibiting in a tent, arena, or other open space equestrian stunts, acrobatic stunts, freaks, trained or wild animals, and other forms of entertainment commonly known as a circus. This paragraph shall not be construed to include any circus or carnival for private profit sponsored by or in which any fire company of the State, or any fraternal, veteran's or religious organization shall share in the profits. The license fee for such circus or carnival shall be $300.

(6) Commercial lessor, $75. "Commercial lessor" includes every person who, as lessor or sublessor, receives rental income pursuant to any agreement transferring a title interest or possessory interest in real property located in this State under a lease of a commercial unit for any term. For this purpose, “commercial unit " means a structure or that part of a structure which is used for purposes other than a dwelling unit or farm unit.

~~(7) Crude oil lightering operator, $100,000. "Crude oil lightering operator" includes every person engaged in the business of transferring crude oil, which consist of any naturally occurring liquid hydrocarbon at atmospheric temperature and pressure coming from the earth, including condensate, from the cargo tank of any waterborne vessel to the cargo tank of another waterborne vessel.~~

~~(8)~~(7) Drayperson or mover, $75. "Drayperson or mover" includes every person operating a business of transporting for profit tangible personal property of other persons.

~~(9)~~(8) Finance or small loan agency, $450. "Finance or small loan agency" includes every person engaged in the business of lending money, with or without security, to other persons, with repayments of the loans to be made by installments or otherwise, but shall not include, either in reference to future or past transactions, banks or trust companies authorized to do banking business in the State under Title 5.

~~(10)~~(9) Hotel, $25 for each room and $30 for each suite. "Hotel" includes every person engaged in the business of operating a place where the public may, for a consideration, obtain sleeping accommodations and meals and which, in an incorporated town, has at least 10 and in any other place at least 6 permanent bedrooms for the use of guests.

~~(11)~~(10) Manufacturer's agent or representative, $75. "Manufacturer's agent" or "representative" includes every independent contractor in the business of representing 1 or more manufacturers for purposes of promoting the sale of the goods, product, or line of goods or products of such manufacturer or manufacturers within the State.

~~(12)~~(11) Mercantile agency or collection agency, $75. "Mercantile agency" or "collection agency" includes every person operating a business of investigation of financial ratings and credit and/or the collection of commercial accounts for other persons, except attorneys-at-law having a license to practice such profession in this State.

~~(13)~~(12) Motel, $25 for each room. "Motel" includes every person engaged in the business of furnishing for a consideration, transient guests with sleeping accommodations, private bath and toilet facilities, linen service and a place to park an automobile and who is not in the business of operating a hotel or tourist home as defined in this section.

~~(14)~~(13) Outdoor musical festival promoter, $750. "Outdoor musical festival promoter" includes every person engaged in the business of organizing, operating, producing or staging musical entertainment in open spaces and not in a permanent structure for a gathering of 1,000 or more persons who pay a consideration or admission charge to view or hear such musical entertainment.

~~(15)~~(14) Parking lot or garage operator, $75 for the first lot or garage facility and $35 for each additional facility. "Parking lot" or "garage operator" includes every person engaged in the business of operating any motor vehicle parking facility, whether open or enclosed, with space for 10 or more vehicles.

~~(16)~~(15) Photographer, $75. "Photographer" includes every person operating a business of taking, making and/or developing photographs or pictures by action of light for profit or reward. Transient photographers without a regular and established place of business within the State shall pay an additional license tax of $25 for each day of operation within the State.

~~(17)~~(16) Real estate broker, $75. "Real estate broker" includes every person certified as such by the Delaware Real Estate Commission and engaged in the real estate business. It includes those among such persons who deal exclusively or partly with rental property.

~~(18)~~(17) Sales representative, $75. "Sales representative" includes every person who works in excess of 80 hours in any calendar month in the year selling goods or merchandise door to door. It includes soliciting orders and home demonstrations.

~~(19)~~(18) Security business, $115. "Security business" includes every security business defined in § 1201 of Title 24.

~~(20)~~(19) Showperson, $375. "Showperson" includes every person engaged in the business of conducting or operating for profit a public theater, house or other enclosed place for the exhibition of stage shows or musical presentations, animal shows, carnivals for private profit and all other amusements of like character.

~~(21)~~(20) Taxicab or bus operator, $45, for the first motor vehicle; $30, for each additional motor vehicle. "Taxicab" or "bus operator" includes every person engaged in the business of the operation of motor vehicles in transporting persons for hire in the accommodation of the general public. A public carrier holding a certificate of public convenience and necessity issued by the Delaware Transportation Authority of the Department of Transportation authorizing it to operate a taxicab business, which actually operates such taxicab business through the leasing of its taxicab vehicles to independent contractor lessee drivers, shall be construed to be a "person" under this paragraph "engaged in the business of the operation of motor vehicles in transporting persons for hire in the accommodation of the general public" and shall pay the above-specified annual fees for its taxicab motor vehicles which are subject to such leasing for the year involved, and none of the independent contractor lessee drivers of such vehicles shall be construed to be a "person engaged in the business of the operation of motor vehicles in transporting persons for hire in the accommodation of the general public" within the meaning of this paragraph. This tax shall not apply however, to the operation of school buses used solely in the transportation of children to and from kindergarten, grade school, vocational school and high school.

~~(22)~~(21) Tourist home, $15 for each room. "Tourist home" includes every person who operates a place where tourists or transient guests, for a consideration, may obtain sleeping accommodations and which has at least 5 permanent bedrooms for the use of tourists or transient guests and who is not in the hotel or motel business as defined in this section.

~~(23)~~(22) Trailer park, $10 for each space as specified on a plot plan or as designated by the owner. "Trailer park", which may also be identified as a recreational vehicle park, or a tenting recreation park, includes any person engaged in the business of operating any place where space is furnished for units to park and hook up to or use sanitary and/or electrical facilities. This paragraph shall not apply to mobile home parks.

~~(24)~~(23) Transportation agent, $75. "Transportation agent" includes every person operating a business of selling tickets on behalf of other persons, for transportation by common carriers on a commission basis or for profit.

~~(25)~~(24) Travel agency, $225. "Travel agency" includes every person in the business of operating a full service travel bureau or department which assists in the planning and acquisition of tickets for contemplated trips of its customers by land, sea or air and for related accommodations.

~~(26)~~(25) Headquarters Management Corporation, $5,000; provided, however, that in the case of any affiliated group, as defined in § 6401(1) of this title, only 1 member of such affiliated group that is a Headquarters Management Corporation shall be liable for a $5,000 annual license tax under this paragraph, and each other member of such affiliated group that is a Headquarters Management Corporation shall pay a license tax of $500. For purposes of this paragraph, “Headquarters Management Corporation " has the meaning set forth in § 6401(5) of this title.

~~(27)~~(26) Direct care worker , $75. "Direct care worker" means, for purposes of this title, an individual (aide, assistant, caregiver, technician or other designation used) under contract to, but not employed by, a personal

assistance services agency to provide personal care services, companion services, homemaker services, transportation services and those services as permitted in § 1921(a)(19) of Title 24 to consumers. The direct care worker provides these services to an individual primarily in the individual's place of residence.

Section 2. Amend § 2301(f), Title 30 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(f) Paragraphs (a)(5), ~~(7), (9), (10), (13), (14), (18) and (20)-(26)~~ (8), (9), (12), (13), (17) and (19)-(25) of this section shall be exempt from the additional license fee imposed by subsection (d) of this section.

Section 3. Amend § 9113(b), Title 7 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(b) The following moneys shall be deposited into the Fund:

(1) All the taxes assessed pursuant to § 9114 of this title ~~and all license fees collected pursuant to § 2301(a)(7) of Title 30~~;

(2) All remedial costs recovered pursuant to this chapter;

(3) Penalties collected or recovered pursuant to this chapter;

(4) Penalties collected or recovered pursuant to this chapter, not to include penalties assessed on any gross receipts tax surcharge provided by this chapter;

(5) The State Treasurer shall credit to the Hazardous Substance Cleanup Fund such amount of interest as determined by this paragraph upon such Fund. On or before the last day of each month, the State Treasurer shall credit the Fund with interest on the average balance in the Fund for the preceding month. The interest to be paid to the Fund shall be that proportionate share, during such preceding month, of interest to the State as the Fund's and the State's average balance is to the total State's average balance. The Fund's average balance shall be determined by averaging, in each instance, the balances at the beginning of each month and the balances at the end of that month; and

(6) Any other money appropriated or transferred to the account by the General Assembly.

SYNOPSIS

This Act eliminates the $100,000 business license fee for firms engaged in crude oil lightering. It consequently eliminates the designation of proceeds from the lightering license fee to the Hazardous Substance Cleanup Fund.