

Chapter 230

(House Bill 522)

AN ACT concerning

Public Health – Food Establishments – Licensing

FOR the purpose of providing that certain regulations adopted by the Maryland Department of Health establishing a certain licensing system is a rescindable, rather than nonrescindable, alternative to regulation under a certain provision of law; authorizing the Department to adopt certain regulations governing excluded organizations; requiring an excluded organization to meet certain requirements under certain circumstances; extending the number of consecutive days of operation authorized under a license to operate a temporary food service facility before the license expires; altering certain definitions; and generally relating to the licensing of food establishments.

~~BY repealing and reenacting, with amendments,~~~~Article – Health – General~~~~Section 21–301(e) and (h), 21–304(a), 21–305(b), and 21–309(a)(4) and (b)(2)~~~~Annotated Code of Maryland~~~~(2015 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, without amendments,

Article – Health – General

Section 21–301(a), 21–305(a), and 21–309(a)(1)

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,Article – Health – GeneralSection 21–301(e) and (h), 21–304(a), 21–305(b), and 21–309(a)(4) and (b)(2)Annotated Code of Maryland(2015 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

21–301.

(a) In this subtitle the following words have the meanings indicated.

(e) “Excluded organization” means:

(1) A bona fide nonprofit fraternal, civic, war veterans', religious, or charitable organization or corporation that does not serve food to the public more often than 4 days per week except that once a year an organization may serve food to the public for up to [14] **30** consecutive days; and

(2) A volunteer fire company that does not serve food to the public more often than 4 days per week except that once a year a volunteer fire company may serve food to the public for up to 30 consecutive days.

(h) (1) "Food service facility" means:

(i) A place where food or drink is prepared for sale or service on the premises or elsewhere; or

(ii) Any operation where food is served to or provided for the public, with or without charge.

(2) "Food service facility" includes a micro market licensed under Title 17, Subtitle 17 of the Business Regulation Article.

(3) "Food service facility" does not include:

(i) A kitchen in a private home where food is prepared at no charge for guests in the home, for guests at a social gathering, or for service to unemployed, homeless, or other disadvantaged populations;

(ii) A food preparation or serving area where [only nonpotentially hazardous] food[, as defined by the United States Food and Drug Administration,] is prepared or served only by an excluded organization;

(iii) A location in a farmer's market or at a public festival or event where raw agricultural products, as defined in § 21-304(d)(1)(iii) of this subtitle, are sold; or

(iv) A cottage food business.

21-304.

(a) (1) The Department shall adopt rules and regulations necessary to carry out the provisions of this subtitle.

(2) For excluded organizations, the Department:

(i) Shall adopt separate regulations that establish minimum standards that:

1. Ensure food integrity and safety;
2. Preserve public health; and
3. Control foodborne illnesses; [and]

(ii) May adopt separate regulations that establish a licensing system, with appropriate standards, that excluded organizations may voluntarily choose to submit to as a [nonrescindable] **RESCINDABLE** alternative to regulation under item (i) of this paragraph; **AND**

(III) MAY ADOPT REGULATIONS GOVERNING EXCLUDED ORGANIZATIONS SERVING POTENTIALLY HAZARDOUS FOOD PREPARED IN A PRIVATE KITCHEN.

21–305.

(a) Except as otherwise provided in this subtitle, a person may not operate a food establishment unless the person is licensed by the Department.

(b) (1) A separate license is required for each food establishment that a person owns or operates.

(2) Except in Baltimore City, the provisions of this subsection may require a license for each location where vending machines are operated, but may not require a separate license for each individual vending machine.

(3) Except in Baltimore City, vending machine locations used exclusively for prepackaged and commercially sealed foods that are not potentially hazardous, as defined by regulation, are not required to be licensed.

(4) In Baltimore City, a license may be required for each individual vending machine.

(5) ~~(1)~~ **(I)** An excluded organization may operate a food establishment without a license unless the excluded organization has been issued a license under § 21–304(a)(2)(ii) of this subtitle.

~~(2)~~ **(II)** **IF THE DEPARTMENT ADOPTS REGULATIONS GOVERNING EXCLUDED ORGANIZATIONS SERVING POTENTIALLY HAZARDOUS FOODS PREPARED IN A PRIVATE KITCHEN, AN EXCLUDED ORGANIZATION SHALL MEET ANY REQUIREMENTS IN THE REGULATIONS.**

(6) A license is not required for a person who:

- (i) Produces shell eggs;

(ii) Sells the shell eggs directly to the public; and

(iii) Is registered with or inspected by the Secretary of Agriculture under § 4–310 or § 4–311.1 of the Agriculture Article.

(7) Except as provided in § 21–304 of this subtitle, nothing in this subtitle shall preempt the right of a county to require a permit under the authority provided by a local law, ordinance, or regulation if this subtitle does not require the food establishment to obtain a State license.

21–309.

(a) (1) In this section the following terms have the meanings indicated.

(4) “Temporary food service facility” means a food service facility which operates during a period of time of not more than [14] **30** consecutive days at a fixed location in conjunction with a fair, carnival, public exhibition, construction project, recreational facility, or similar gathering.

(b) (2) Except as provided in § 10–226 of the State Government Article, a license to operate a temporary food service facility expires at the conclusion of the underlying event or after [14] **30** consecutive days of operation, whichever is earlier, or as provided by local law, ordinance, or regulation in accordance with § 21–304(b) and (c) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.