

# HOUSE BILL 1217

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By: **Delegates Valderrama and Pena–Melnyk**

Introduced and read first time: February 8, 2013

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Food Service Facilities – Letter Grading**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to  
4 establish and implement a system for grading and classifying health inspection  
5 results for certain food service facilities; requiring the Department to provide  
6 certain food service facilities with letter grade cards; requiring certain food  
7 service facilities to immediately post letter grade cards under certain  
8 circumstances; prohibiting the Department from providing a letter grade card to  
9 a food service facility if the Department orders the closing of the facility;  
10 prohibiting a letter grade card from being defaced, marred, camouflaged, or  
11 hidden from public view; requiring certain food service facilities to post letter  
12 grade cards in a conspicuous manner; requiring the Department to conduct  
13 second inspections of certain food service facilities under certain circumstances;  
14 authorizing certain food service facilities to request certain hearings to contest  
15 certain letter grades; authorizing a food service facility to defer posting a letter  
16 grade pending the results of a subsequent inspection; requiring a food service  
17 facility to remove a letter grade card under certain circumstances and post a  
18 sign provided by the Department advising the public of certain information  
19 regarding the inspection of the facility; requiring the Department to regrade  
20 certain inspection results and issue new letter grade cards under certain  
21 circumstances; defining certain terms; and generally relating to the grading of  
22 health inspection results for food service facilities in the State.

23 BY repealing and reenacting, without amendments,  
24 Article – Health – General  
25 Section 21–309(a)(2) and 21–313  
26 Annotated Code of Maryland  
27 (2009 Replacement Volume and 2012 Supplement)

28 BY adding to  
29 Article – Health – General

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 21-313.1  
2 Annotated Code of Maryland  
3 (2009 Replacement Volume and 2012 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article – Health – General  
6 Section 21-316  
7 Annotated Code of Maryland  
8 (2009 Replacement Volume and 2012 Supplement)

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

11 **Article – Health – General**

12 21-309.

13 (a) (2) “Mobile food service facility” means a food service facility which is  
14 a mechanically, electrically, manually, or otherwise propelled vehicle operating on  
15 land or water.

16 21-313.

17 (a) To enforce this subtitle, a representative of the Department, at any  
18 reasonable time, may:

19 (1) Enter and inspect any food establishment; and

20 (2) Inspect and sample any item of food that is in a food  
21 establishment.

22 (b) A person may not:

23 (1) Refuse to grant access to a representative of the Department who  
24 requests to enter and inspect a food establishment under this section; or

25 (2) Interfere with any inspection under this section.

26 **21-313.1.**

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
28 MEANINGS INDICATED.

29 (2) “FOOD SERVICE FACILITY” MEANS:

30 (I) A FULL-SERVICE RESTAURANT; OR

1                   **(II) A MOBILE FOOD SERVICE FACILITY.**

2                   **(3) “MOBILE FOOD SERVICE FACILITY” HAS THE MEANING**  
3 **STATED IN § 21–309(A)(2) OF THIS SUBTITLE.**

4                   **(B) (1) THE DEPARTMENT SHALL ESTABLISH AND IMPLEMENT A**  
5 **SYSTEM FOR GRADING AND CLASSIFYING INSPECTION RESULTS FOR A FOOD**  
6 **SERVICE FACILITY, USING LETTERS TO IDENTIFY AND REPRESENT A FOOD**  
7 **SERVICE FACILITY’S DEGREE OF COMPLIANCE WITH THE STATE AND LOCAL**  
8 **LAWS THAT REQUIRE A FOOD SERVICE FACILITY TO OPERATE IN A SANITARY**  
9 **MANNER TO PROTECT PUBLIC HEALTH.**

10                   **(2) THE LETTER “A” SHALL BE THE GRADE REPRESENTING THE**  
11 **HIGHEST DEGREE OF COMPLIANCE WITH APPLICABLE STATE AND LOCAL LAWS.**

12                   **(3) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (4) OF THIS**  
13 **SUBSECTION, THE DEPARTMENT SHALL PROVIDE EACH FOOD SERVICE**  
14 **FACILITY THAT THE DEPARTMENT INSPECTS UNDER § 21–313 OF THIS**  
15 **SUBTITLE WITH A LETTER GRADE CARD INDICATING THE INSPECTION GRADE OF**  
16 **THE FOOD SERVICE FACILITY.**

17                   **(4) THE DEPARTMENT MAY NOT PROVIDE A LETTER GRADE CARD**  
18 **TO A FOOD SERVICE FACILITY IF THE DEPARTMENT ORDERS THE CLOSING OF**  
19 **THE FOOD SERVICE FACILITY.**

20                   **(C) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (4) AND**  
21 **(5) OF THIS SUBSECTION, A FOOD SERVICE FACILITY SHALL CONSPICUOUSLY**  
22 **POST A LETTER GRADE CARD SO THAT IT IS VISIBLE TO THE PUBLIC AND TO**  
23 **PATRONS BEFORE THE PATRONS ENTER THE FOOD SERVICE FACILITY.**

24                   **(2) A LETTER GRADE CARD MAY NOT BE DEFACED, MARRED,**  
25 **CAMOUFLAGED, OR HIDDEN FROM PUBLIC VIEW.**

26                   **(3) (I) FOR ANY FOOD SERVICE FACILITY RECEIVING AN “A”**  
27 **GRADE, THE DEPARTMENT SHALL PROVIDE THE FOOD SERVICE FACILITY WITH**  
28 **A LETTER GRADE CARD AT THE CONCLUSION OF THE INSPECTION DURING**  
29 **WHICH THE GRADE IS DETERMINED.**

30                   **(II) THE FOOD SERVICE FACILITY SHALL IMMEDIATELY**  
31 **POST THE LETTER GRADE CARD.**

1           **(4) (I) FOR A FOOD SERVICE FACILITY RECEIVING A LETTER**  
2 **GRADE LOWER THAN “A”, THE DEPARTMENT SHALL ADVISE THE FOOD SERVICE**  
3 **FACILITY OF ITS INSPECTION GRADE AND THE FINDINGS ON WHICH THE GRADE**  
4 **WAS BASED.**

5           **(II) THE DEPARTMENT SHALL CONDUCT A SUBSEQUENT**  
6 **INSPECTION OF THE FOOD SERVICE FACILITY NO LATER THAN 7 DAYS AFTER**  
7 **THE FIRST INSPECTION.**

8           **(III) AT THE CONCLUSION OF THE SECOND INSPECTION, THE**  
9 **DEPARTMENT SHALL PROVIDE THE FOOD SERVICE FACILITY WITH A LETTER**  
10 **GRADE CARD INDICATING THE INSPECTION GRADE THAT THE FOOD SERVICE**  
11 **FACILITY RECEIVED ON THE INSPECTION.**

12           **(IV) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (5)**  
13 **OF THIS SUBSECTION, THE FOOD SERVICE FACILITY SHALL IMMEDIATELY POST**  
14 **THE LETTER GRADE CARD.**

15           **(5) (I) A FOOD SERVICE FACILITY THAT RECEIVES A LETTER**  
16 **GRADE LOWER THAN “A” AT A SECOND INSPECTION CONDUCTED UNDER**  
17 **PARAGRAPH (4) OF THIS SUBSECTION MAY REQUEST A HEARING TO BE**  
18 **CONDUCTED BEFORE THE DEPARTMENT TO CONTEST THE LETTER GRADE.**

19           **(II) THE FOOD SERVICE FACILITY MAY DEFER POSTING THE**  
20 **LETTER GRADE CARD PROVIDED BY THE DEPARTMENT UNTIL 72 HOURS AFTER**  
21 **THE HEARING.**

22           **(III) IF A FOOD SERVICE FACILITY CHOOSES TO DEFER**  
23 **POSTING A LETTER GRADE CARD AS PROVIDED UNDER SUBPARAGRAPH (II) OF**  
24 **THIS PARAGRAPH, THE FOOD SERVICE FACILITY SHALL REMOVE ANY LETTER**  
25 **GRADE CARD THAT IS CURRENTLY POSTED AND CONSPICUOUSLY POST A SIGN**  
26 **PROVIDED BY THE DEPARTMENT SO THAT IT IS VISIBLE TO THE PUBLIC AND TO**  
27 **PATRONS BEFORE THE PATRONS ENTER THE FOOD SERVICE FACILITY.**

28           **(IV) THE SIGN SHALL ADVISE THE PUBLIC THAT:**

29                   **1. THE INSPECTION RESULTS OF THE FOOD SERVICE**  
30 **FACILITY ARE UNDER REVIEW; AND**

31                   **2. THE RESULTS OF THE INSPECTION MAY BE**  
32 **OBTAINED FROM THE DEPARTMENT.**

1                   (V) WITHIN 72 HOURS AFTER THE HEARING, THE  
2 DEPARTMENT SHALL REGRADE THE INSPECTION RESULTS, TAKING INTO  
3 ACCOUNT ANY SUBSEQUENT INSPECTION OF THE FOOD SERVICE FACILITY THAT  
4 RESULTS IN A FINDING THAT THE FOOD SERVICE FACILITY COMPLIES WITH  
5 STATE AND LOCAL HEALTH LAWS.

6                   (VI) IF REGRADING CHANGES THE INSPECTION GRADE, THE  
7 DEPARTMENT SHALL ISSUE THE FOOD SERVICE FACILITY A NEW LETTER GRADE  
8 CARD, WHICH THE FOOD SERVICE FACILITY SHALL IMMEDIATELY POST.

9                   (VII) IF REGRADING DOES NOT CHANGE THE INSPECTION  
10 GRADE, THE FOOD SERVICE FACILITY SHALL IMMEDIATELY POST THE LETTER  
11 GRADE CARD ISSUED AFTER THE SECOND INSPECTION AS PROVIDED UNDER  
12 PARAGRAPH (4)(III) OF THIS SUBSECTION.

13 21-316.

14           (a) Except as otherwise provided in Title 10, Subtitles 2 and 3 of the State  
15 Government Article, before the Department takes any final action under § 21-311, §  
16 **21-313.1**, or § 21-315 of this subtitle, the Secretary shall give the person against  
17 whom the action is contemplated an opportunity for a hearing before the Department.

18           (b) The Department shall give notice and hold the hearing in accordance  
19 with Title 10, Subtitle 2 of the State Government Article.

20           (c) The Department shall send the hearing notice to the applicant or licensee  
21 by certified mail, return receipt requested, bearing a postmark from the United States  
22 Postal Service.

23           (d) Within 30 days after the hearing required under this section, the  
24 Department shall decide the issue and immediately notify the parties to the hearing.

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2013.