

HOUSE BILL 1197

J1, P1

4lr2781
CF SB 409

By: **Delegates Hixson, Tarrant, Howard, and Valderrama**

Introduced and read first time: February 7, 2014

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 1, 2014

CHAPTER _____

1 AN ACT concerning

2 **Health – Food Allergy Awareness**

3 FOR the purpose of requiring a ~~food establishment~~ restaurant, beginning on a certain
4 date, to request that a customer inform the employee taking the customer's food
5 order of any known food allergies before ordering; providing that the request
6 may be included on a certain sign or a menu or menu board or made by the
7 employee taking the customer's food order; ~~requiring a food establishment,~~
8 ~~beginning on a certain date, to have on the premises at certain times an~~
9 ~~employee who has completed a certain training course, passed a certain test,~~
10 ~~and is available to discuss meal options with certain customers; providing that a~~
11 ~~food establishment that is required under local law to have a food service~~
12 ~~manager on the premises satisfies a certain provision of this Act under certain~~
13 ~~circumstances;~~ requiring the Department of Health and Mental Hygiene to
14 make available on its Web site a list of certain food allergen awareness training
15 courses and tests and a list of certain resources; providing for the application of
16 certain provisions of this Act; providing that a person who violates certain
17 provisions of this Act is not subject to certain criminal or civil penalties;
18 defining a certain term; and generally relating to food allergy awareness.

19 BY repealing and reenacting, with amendments,
20 Article – Health – General
21 Section 21–330.2 and 21–1214
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Health – General**

4 21–330.2.

5 **(A) (1) IN THIS SECTION, “RESTAURANT” MEANS A FOOD**
6 **ESTABLISHMENT THAT:**

7 **(I) ACCOMMODATES THE PUBLIC;**

8 **(II) IS EQUIPPED WITH FACILITIES FOR PREPARING AND**
9 **SERVING REGULAR MEALS; AND**

10 **(III) PROVIDES SEATING OR HAS ACCESS TO SHARED**
11 **SEATING FOR USE OF ITS CUSTOMERS.**

12 **(2) “RESTAURANT” DOES NOT INCLUDE:**

13 **(I) A CONVENIENCE STORE;**

14 **(II) A GROCERY STORE; OR**

15 **(III) A SERVICE STATION.**

16 **(B) SUBSECTION (D) OF THIS SECTION DOES NOT APPLY TO A FOOD**
17 **ESTABLISHMENT THAT IS A VENDOR AT:**

18 **(1) A CARNIVAL, AS DEFINED IN § 3–101 OF THE BUSINESS**
19 **REGULATION ARTICLE; OR**

20 **(2) A FAIR, AS DEFINED IN § 3–101 OF THE BUSINESS**
21 **REGULATION ARTICLE.**

22 ~~(a)~~ **(C) (1)** Beginning March 1, 2014, a food establishment shall display
23 prominently in the staff area of the food establishment a poster relating to food allergy
24 awareness that includes information regarding the risk of an allergic reaction.

25 **[(b)] (2)** On or before January 1, 2014, the Department, in consultation
26 with the Restaurant Association of Maryland and Food Allergy Research and
27 Education, shall create and make available on its Web site the poster required to be
28 displayed under [subsection (a) of this section] **PARAGRAPH (1) OF THIS**
29 **SUBSECTION.**

1 ~~(B)~~ (D) (1) BEGINNING ON MARCH 1, 2015, A ~~FOOD ESTABLISHMENT~~
2 ~~RESTAURANT~~ SHALL REQUEST THAT A CUSTOMER INFORM THE EMPLOYEE
3 TAKING THE CUSTOMER'S FOOD ORDER OF ANY KNOWN FOOD ALLERGIES
4 BEFORE ORDERING.

5 (2) THE REQUEST REQUIRED UNDER PARAGRAPH (1) OF THIS
6 SUBSECTION MAY BE:

7 (I) INCLUDED ON A SIGN THAT IS CONSPICUOUSLY
8 DISPLAYED IN THE RESTAURANT;

9 (II) INCLUDED ON THE ~~FOOD ESTABLISHMENT'S~~
10 RESTAURANT'S MENU OR MENU BOARD; OR

11 ~~(H)~~ (III) MADE BY THE EMPLOYEE TAKING THE
12 CUSTOMER'S FOOD ORDER.

13 ~~(C)~~ (1) ~~BEGINNING ON MARCH 1, 2015, A FOOD ESTABLISHMENT~~
14 ~~SHALL HAVE ON THE PREMISES AT ALL TIMES WHEN FOOD IS BEING PREPARED~~
15 ~~OR SERVED AN EMPLOYEE WHO:~~

16 ~~(I)~~ ~~HAS COMPLETED A FOOD ALLERGEN AWARENESS~~
17 ~~TRAINING COURSE AND PASSED AN ACCREDITED TEST APPROVED BY THE~~
18 ~~DEPARTMENT; AND~~

19 ~~(H)~~ ~~IS AVAILABLE TO DISCUSS MEAL OPTIONS WITH~~
20 ~~CUSTOMERS WHO HAVE FOOD ALLERGIES.~~

21 ~~(2)~~ ~~A FOOD ESTABLISHMENT THAT IS REQUIRED UNDER LOCAL~~
22 ~~LAW TO HAVE A FOOD SERVICE MANAGER ON THE PREMISES SATISFIES THE~~
23 ~~REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION IF THE FOOD SERVICE~~
24 ~~MANAGER HAS COMPLETED A FOOD ALLERGEN AWARENESS TRAINING COURSE~~
25 ~~APPROVED BY THE DEPARTMENT.~~

26 ~~(D)~~ (E) THE DEPARTMENT SHALL MAKE AVAILABLE ON ITS WEB
27 SITE:

28 (1) A LIST OF APPROVED THIRD-PARTY ONLINE AND IN-PERSON
29 FOOD ALLERGEN AWARENESS TRAINING COURSES AND ACCREDITED TESTS;
30 AND

31 (2) A LIST OF RESOURCES ABOUT FOOD SAFETY AND FOOD
32 HANDLING AS THEY RELATE TO FOOD ALLERGIES.

1 21-1214.

2 (a) (1) Except as provided in paragraph (2) of this subsection, any person
 3 who violates any provision of Subtitle 3 of this title or any rule or regulation adopted
 4 under Subtitle 3 of this title is guilty of a misdemeanor and on conviction is subject to:

5 (i) For a first offense, a fine not exceeding \$1,000 or
 6 imprisonment not exceeding 90 days, or both; and

7 (ii) For a second offense, a fine not exceeding \$2,500 or
 8 imprisonment not exceeding 1 year, or both.

9 (2) A person who violates § 21-330.1 OR § 21-330.2(D) of this title is
 10 not subject to paragraph (1) of this subsection.

11 (b) (1) [In] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
 12 SUBSECTION, IN addition to any criminal penalties imposed under this section, a
 13 person who violates any provision of Subtitle 3 of this title or any rule or regulation
 14 adopted under Subtitle 3 of this title or any term, condition, or limitation of any
 15 license or registration issued under Subtitle 3 of this title:

16 [(1)] (I) Is liable for a civil penalty not exceeding \$5,000, to be
 17 collected in a civil action in the District Court for any county; and

18 [(2)] (II) May be enjoined from continuing the violation.

19 (2) A PERSON WHO VIOLATES § 21-330.2(D) OF THIS TITLE IS NOT
 20 SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION.

21 (c) Each day on which a violation occurs is a separate violation under this
 22 section.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 24 October 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.