

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 1009

(Delegate Krebs, *et al.*)

Health and Government Operations

Finance

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Workgroup on the Licensing of Food Service Facilities

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This bill establishes a Workgroup on the Licensing of Food Service Facilities within the Maryland Department of Health (MDH) to study, evaluate, and make recommendations on whether (1) certain entities should be exempt from the requirement to obtain a food service license; (2) special circumstances may warrant an exemption from the requirement to obtain a food service license; and (3) food service facility laws may be simplified or clarified. The workgroup must submit a report of its findings and recommendations to specified committees of the General Assembly by December 31, 2018. **The bill takes effect July 1, 2018, and terminates June 30, 2019.**

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Fiscal Summary

**State Effect:** MDH can convene the workgroup and submit the required report with existing budgeted resources. Revenues are not affected.

**Local Effect:** To the extent that any local health departments participate in the workgroup, participation can be accomplished with existing resources. Local revenues are not materially affected.

**Small Business Effect:** None.

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Analysis

**Current Law:**

*Food Service Facilities*

A “food service facility” is a place where food or drink is prepared for sale or service on the premises or elsewhere or any operation where food is served or provided to the public, regardless of whether there is a charge. Food service facilities are a type of “food

establishment” regulated under the Health-General Article. A person must have a license from MDH or a local health department to operate a food establishment. A representative of MDH may enter any food establishment at a reasonable time to conduct inspections.

“Food service facility” does not include (1) a kitchen in a private home where food is prepared at no charge for guests in the home, at a social gathering, or for service to unemployed, homeless, or other disadvantaged populations; (2) a food preparation or serving area where only nonpotentially hazardous food is prepared or served only by an excluded organization; (3) a hotel, lodging, or rooming house that serves only a continental breakfast; (4) a farmer’s market or public event where raw agricultural products are sold; (5) specified bake sales; or (6) a cottage food business.

### *Excluded Organizations*

Maryland regulations define an “excluded organization” as a (1) bona fide nonprofit fraternal, civic, war veterans’, religious, or charitable organization or corporation that does not serve food to the public more than 4 days per week, except that once a year an organization may serve food to the public for up to 14 consecutive days or (2) a volunteer fire company that does not serve food to the public more than 4 days a week, except that once a year, an organization may serve food to the public for up to 30 consecutive days.

Regulations require an excluded organization to operate either (1) with a food service facility license in full compliance with applicable regulations or (2) without a license and in compliance with specified minimum requirements to ensure food safety at a food service facility that is operated by an excluded organization without a license. Among other things, if an excluded organization is serving food to the public, the food must be wholesome and free from contamination, not adulterated, safe for human consumption, obtained from an approved source, and packaged and labeled in accordance with regulations. Further, food must be protected during storage, service, and transport and be stored and held at specified temperatures.

### *Food Safety Facility Penalty Provisions*

A food establishment licensee that violates any law or regulation relating to food establishments is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000 and/or up to 90 days imprisonment for a first violation. For a second violation, the maximum penalty is a \$2,500 fine and/or one year imprisonment. In addition, a violator is subject to a civil penalty of up to \$5,000, to be collected by the District Court for any county, and may be enjoined from continuing the violation. Each day is a separate violation.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Association of County Health Officers; Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - March 9, 2018  
nb/jc Third Reader - March 26, 2018  
Revised - Amendment(s) - March 26, 2018

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