

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 15-236)**

Overview and Legal and Fiscal Impact

The regulation reduces the annual license fees for certain food processing plants, including food manufacturing plants, ice manufacturing plants, and beverage plants. The fees are also reduced for food warehouses or distribution centers that distribute potentially hazardous food or only non-potentially hazardous food.

The regulation presents no legal issues of concern.

General fund revenues decrease by approximately \$76,250 in fiscal 2016 and \$152,500 annually thereafter due to a reduction in annual license fees for food processing plants.

Regulation of COMAR Affected

Department of Health and Mental Hygiene:

Procedures: Fees for Community Health Programs: COMAR 10.01.17.02

Legal Analysis

Background

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. This regulation is part of that plan. Additional information regarding Governor Hogan's fee reduction initiative may be found [here](#).

Summary of Regulation

The regulation reduces the annual license fee for the following food processing plants: bakery plant; cannery; confectionary plant; crab meat plant; ice manufacturing plant; shellfish shucking, packing, or repacking plant; shellfish shipping or reshipping plant; food manufacturing plant; a food warehouse or distribution center that distributes potentially hazardous food or only non-potentially hazardous food; bottled water plant; soft drink manufacturing plant; and frozen food manufacturing plant.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 2-104, 21-301, 21-308, 21-309, 21-309.1, 21-403, 21-412, 21-808, and 21-812 of the Health – General Article as statutory authority for the regulation. Section 2-104 authorizes the Secretary of Health and Mental Hygiene to adopt regulations establishing fees not to exceed an amount sufficient to cover the administrative costs associated with inspections or investigations carried out under the Health – General Article and permits, licenses, certifications, or registrations issued under the Health – General Article. Section 21-301 defines terms relating to Title 21, Subtitle 3; Food Establishments of the Health – General Article. Section 21-308 authorizes local governing bodies to provide for a license fee schedule for any license issued for which the authority to conduct a program has been delegated to a local health department and provides that certain license fees may not exceed a specified amount. The section also authorizes an on-farm home processing facility to obtain an on-farm home processing plant license for a fee established in regulations. For any other food establishment license, the Secretary is required to establish a license fee in accordance with § 2-104 of the Health – General Article. Section 21-309 provides for the renewal of various food establishment licenses and requires a licensee to pay the renewal fee assessed under § 2-104 of the Health – General Article. Section 21-309.1 establishes a producer mobile farmer’s market license, requires the fee for the license to be based on the anticipated cost of licensing, inspecting, and regulating licensees, and provides that the fee may not exceed \$100.

Section 21-412 requires an applicant for various milk product permits to pay to the Secretary an annual fee established by the Secretary under § 2-104 of the Health – General Article. Section 21-808 requires an applicant for a license to manufacture in the State a frozen dessert or a mix for a frozen dessert to pay to the Secretary an application fee established by the Secretary under § 2-104 of the Health – General Article. Section 21-812 provides for the renewal of a license to manufacture in the State a frozen dessert or a mix for a frozen dessert and requires a licensee to pay a renewal fee established by the Secretary under § 2-104 of the Health – General Article.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

General fund revenues decrease by approximately \$76,250 in fiscal 2016 and \$152,500 annually thereafter due to a reduction in annual license fees for food processing plants.

Agency Estimate of Projected Fiscal Impact

The department advises that the proposed fee reductions decrease general fund revenues by an estimated \$152,500 annually, beginning with the first full year reduced fees are charged. **Exhibit 1** shows the current and proposed fees and the estimated general fund revenue loss for each fee. The Department of Legislative Services concurs, but notes that as the regulation will likely be effective for only the second half of fiscal 2016, general fund revenues decrease by approximately \$76,250 in fiscal 2016 and \$152,500 in fiscal 2017 and annually thereafter.

Impact on Budget

There is no material impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has a meaningful economic impact on small businesses because the proposed fee reductions result in significant savings for small businesses in Maryland. The regulation results in total savings of approximately \$152,500 annually to all affected food processing plants, the majority of which are small businesses. The Department of Legislative Services concurs that the impact is beneficial but notes that the fee reduction for any one licensee is relatively minimal – either \$250 or \$50 annually, depending on the type of plant.

Additional Comments

Costs associated with annual food processing plant licensing are general funded, and the collected fees accrue to the general fund. Thus, the revenue reductions have no direct programmatic impact. Likewise, staffing is not expected to change as a result of the regulation.

Exhibit 1
General Fund Revenue Reductions Related to
Proposed Changes to Annual License Fees in COMAR 10.01.017.02

<u>Fee Type</u>	<u>Current Fee</u>	<u>Proposed Fee</u>	<u>Revenue Reduction</u>
Food Processing Plants			
Bakery	\$400	\$150	*
Cannery	400	150	*
Confectionary	400	150	*
Crab Meat	400	150	*
Ice Manufacturing	400	150	*
Food Manufacturing	400	150	*
Bottled Water	400	150	*
Soft Drink Manufacturing	400	150	*
Frozen Food Manufacturing	400	150	*
<i>Subtotal</i>			<i>\$81,000</i>
Shellfish Plants			
Shucking, Packing, or Repacking	400	150	9,000
Shipping or Reshipping	200	150	<u>3,800</u>
<i>Subtotal</i>			<i>\$12,800</i>
Food Warehouse/Distribution Centers that			
Distribute Potentially Hazardous Food	400	150	49,000
Distribute Non-potentially Hazardous Food	200	150	<u>9,700</u>
<i>Subtotal</i>			<i>\$58,700</i>
Total			\$152,500

* = unknown

Source: Maryland Department of Legislative Services

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