
By: **Senator Conway**
Introduced and read first time: February 2, 2001
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **WIC Food Vendor Sanctions - Mitigating Provisions**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to
4 review certain sanctions imposed on food vendors in a federal nutritional
5 assistance program during a certain period; authorizing the Department to
6 restore participation in the program under certain circumstances; requiring a
7 restored vendor to develop certain policies to prevent future violations; requiring
8 submission of written documentation on the policies to the Department within a
9 specified time period; providing for retroactive application; defining certain
10 terms; providing for the construction and application of this Act; and generally
11 relating to the application of sanctions for violations of a federal nutritional
12 assistance program.

13 BY adding to
14 Article - Health - General
15 Section 18-108.1
16 Annotated Code of Maryland
17 (2000 Replacement Volume)

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

20 **Article - Health - General**

21 18-108.1.

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (2) "FOOD INSTRUMENT" MEANS A VOUCHER, CHECK, COUPON,
25 ELECTRONIC BENEFITS TRANSFER CARD, OR OTHER DOCUMENT THAT IS USED TO
26 OBTAIN SUPPLEMENTAL FOODS.

27 (3) "PROGRAM" MEANS THE SPECIAL SUPPLEMENTAL FOOD PROGRAM
28 FOR WOMEN, INFANTS, AND CHILDREN AUTHORIZED BY 42 U.S.C. § 1786, THE

1 FEDERAL CHILD NUTRITION ACT OF 1966, AS AMENDED, INCLUDING THE LOCAL,
2 STATE, AND FEDERAL ENTITIES THAT ADMINISTER IT.

3 (4) "TRAFFICKING" MEANS THE BUYING OR SELLING OF A FOOD
4 INSTRUMENT FOR CASH.

5 (5) (I) "VENDOR" MEANS A FOOD STORE, PHARMACY, FOOD
6 STORE-PHARMACY COMBINATION, OR MILITARY COMMISSARY AUTHORIZED BY THE
7 DEPARTMENT TO PARTICIPATE IN THE PROGRAM.

8 (II) "VENDOR" INCLUDES THE PERSONNEL OF A VENDOR.

9 (B) ON OR BEFORE JULY 1, 2001, THE DEPARTMENT SHALL REVIEW ANY
10 DEPARTMENTAL SUSPENSION FROM THE PROGRAM OF 3 YEARS IMPOSED BETWEEN
11 JULY 1, 1999 AND DECEMBER 31, 1999, FOR PROGRAM TRAFFICKING VIOLATIONS.

12 (C) IN REVIEWING A SUSPENSION FOR TRAFFICKING, THE DEPARTMENT
13 SHALL DETERMINE WHETHER ONE OR MORE OF THE FOLLOWING CONDITIONS WERE
14 FACTORS DURING AN INVESTIGATION INTO ONE OR MORE TRAFFICKING
15 VIOLATIONS:

16 (1) THE TRAFFICKING OCCURRED DUE TO THE ACTIONS OF AN
17 INDIVIDUAL EMPLOYEE;

18 (2) (I) THE MONETARY VALUE GAINED FROM ONE VIOLATION WAS
19 LESS THAN \$20; OR

20 (II) IN THE CASE OF MULTIPLE TRAFFICKING VIOLATIONS
21 CHARGED AGAINST A SINGLE VENDOR BETWEEN JANUARY 1, 1999 AND JUNE 30, 1999,
22 THE CUMULATIVE MONETARY VALUE WAS LESS THAN \$50; OR

23 (3) THE VENDOR OF THE PREMISES WHERE THE TRAFFICKING
24 OCCURRED REPORTED THE TRAFFICKING TO THE DEPARTMENT IN GOOD FAITH AND
25 COOPERATED WITH A DEPARTMENTAL INVESTIGATION.

26 (D) IF THE DEPARTMENT DETERMINES THAT ONE OR MORE OF THE
27 CONDITIONS UNDER SUBSECTION (C) OF THIS SECTION WERE FACTORS, ON OR
28 BEFORE SEPTEMBER 1, 2001, THE DEPARTMENT MAY REVOKE ITS 3-YEAR
29 SUSPENSION AND RESTORE THE VENDOR TO FULL PARTICIPATION IN THE PROGRAM.

30 (E) (1) A VENDOR RESTORED TO PARTICIPATION IN THE PROGRAM SHALL
31 DEVELOP POLICIES TO PREVENT FUTURE EMPLOYEE TRAFFICKING VIOLATIONS.

32 (2) THE VENDOR SHALL SUBMIT WRITTEN DOCUMENTATION OF THE
33 POLICIES TO THE DEPARTMENT WITHIN 90 DAYS OF BEING RESTORED TO
34 PARTICIPATION.

35 (F) THE PROVISIONS OF THIS SECTION ARE EFFECTIVE ONLY TO THE EXTENT
36 THAT THEY ARE NOT INCONSISTENT WITH APPLICABLE FEDERAL LAW OR
37 REGULATIONS.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed retroactively and shall be applied to and interpreted to affect 3-year
3 suspensions imposed against Program vendors by the Department of Health and
4 Mental Hygiene between July 1, 1999 and December 31, 1999.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 June 1, 2001.