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By: **Senators Haines, Brinkley, and Kittleman**

Introduced and read first time: February 4, 2005

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2005

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CHAPTER\_\_\_\_\_

1 AN ACT concerning

2 **Carroll County - Food Sales - Religious Organizations**

3 FOR the purpose of authorizing certain religious organizations in Carroll County to  
4 sell certain homemade fruit jellies, jams, and preserves, certain fruit butters,  
5 and certain fruit pies if the food offered for sale or sold is produced at the  
6 organization and meets certain safety standards adopted by the Department of  
7 Health and Mental Hygiene; and generally relating to food sales by religious  
8 organizations in Carroll County.

9 BY repealing and reenacting, without amendments,  
10 Article - Health - General  
11 Section 21-301(a) and (e) and 21-304  
12 Annotated Code of Maryland  
13 (2000 Replacement Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Health - General  
16 Section 21-305  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume and 2004 Supplement)

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

1 **Article - Health - General**

2 21-301.

3 (a) In this subtitle the following words have the meanings indicated.

4 (e) "Excluded organization" means:

5 (1) A bona fide nonprofit fraternal, civic, war veterans', religious, or  
6 charitable organization or corporation that does not serve food to the public more  
7 often than 4 days per week except that once a year an organization may serve food to  
8 the public for up to 14 consecutive days; and

9 (2) A volunteer fire company that does not serve food to the public more  
10 often than 4 days per week except that once a year a volunteer fire company may  
11 serve food to the public for up to 30 consecutive days.

12 21-304.

13 (a) (1) The Department shall adopt rules and regulations necessary to carry  
14 out the provisions of this subtitle.

15 (2) For excluded organizations, the Department:

16 (i) Shall adopt separate regulations that establish minimum  
17 standards that:

18 1. Ensure food integrity and safety;

19 2. Preserve public health; and

20 3. Control foodborne illnesses; and

21 (ii) May adopt separate regulations that establish a licensing  
22 system, with appropriate standards, that excluded organizations may voluntarily  
23 choose to submit to as a nonrescindable alternative to regulation under subparagraph  
24 (i) of this paragraph.

25 (b) A political subdivision may not adopt a law, ordinance, rule, or regulation  
26 that establishes a standard that is less stringent than rules and regulations adopted  
27 under this subtitle.

28 (c) Except as otherwise provided in this section, this subtitle does not limit the  
29 power of a home rule or charter county or Baltimore City to adopt and enforce laws,  
30 ordinances, and regulations that are consistent with the purposes of this subtitle,  
31 including the power to adopt local licensing and enforcement procedures.

32 21-305.

33 (a) Except as otherwise provided in this subtitle, a person may not operate a  
34 food establishment unless the person is licensed by the Department.

1 (b) (1) A separate license is required for each food establishment that a  
2 person owns or operates.

3 (2) Except in Baltimore City, the provisions of this subsection may  
4 require a license for each location where vending machines are operated, but may not  
5 require a separate license for each individual vending machine.

6 (3) Except in Baltimore City, vending machine locations used exclusively  
7 for prepackaged and commercially sealed foods that are not potentially hazardous, as  
8 defined by regulation, are not required to be licensed.

9 (4) In Baltimore City, a license may be required for each individual  
10 vending machine.

11 (5) An excluded organization may operate a food establishment without  
12 a license unless the excluded organization has been issued a license under §  
13 21-304(a)(2)(ii) of this title.

14 (6) Nothing in this subtitle shall preempt the right of a county to require  
15 a permit under the authority provided by a local law, ordinance, or regulation if this  
16 subtitle does not require the food establishment to obtain a State license.

17 (c) A license is not transferable:

18 (1) Except as provided by regulation for transfer of the license on the  
19 death of the licensee from person to person; or

20 (2) From location to location.

21 (d) (1) For the purposes of this section a license issued by a county health  
22 department under the authority provided by local law, ordinance, or regulation in  
23 accordance with § 21-304(b) and (c) of this subtitle shall constitute the license  
24 required under this subtitle, unless the Department, after a hearing, determines that  
25 the licensee is not in compliance with this subtitle and regulations adopted under this  
26 subtitle.

27 (2) After a determination of noncompliance under paragraph (1) of this  
28 subsection, the Department shall act to ensure that the food establishment and its  
29 operator comply with this subtitle and the rules and regulations adopted under this  
30 subtitle.

31 (3) Nothing in this subtitle shall allow the issuance of 2 separate licenses  
32 issued solely for the regulation of a food establishment under this subtitle.

33 (e) In Charles County, an issuance, renewal, or transfer of an off-sale  
34 alcoholic beverages license shall not require Department approval.

35 (F) IN CARROLL COUNTY, A BONA FIDE RELIGIOUS ORGANIZATION THAT  
36 MEETS THE REQUIREMENTS OF AN EXCLUDED ORGANIZATION UNDER § 21-301 OF  
37 THIS SUBTITLE MAY OFFER FOR SALE OR SELL THE FOLLOWING TYPES OF

1 HOMEMADE-STYLE FOOD IF THE FOOD IS PRODUCED AT THE ORGANIZATION AND  
2 MEETS THE APPROPRIATE HEALTH AND SAFETY STANDARDS ADOPTED BY THE  
3 DEPARTMENT:

4           (1)       FRUIT JELLIES, JAMS, AND PRESERVES MADE FROM APPLES,  
5 APRICOTS, BLACKBERRIES, BLUEBERRIES, BOYSENBERRIES, CHERRIES,  
6 CRANBERRIES, GRAPES, NECTARINES, ORANGES, PEACHES, PLUMS, QUINCE,  
7 RASPBERRIES, RED CURRANTS, STRAWBERRIES, OR TANGERINES;

8           (2)       FRUIT BUTTER MADE FROM APPLES, APRICOTS, GRAPES, PEACHES,  
9 PLUMS, PRUNES, OR QUINCE; AND

10          (3)       FRUIT PIES MADE FROM APPLES, APRICOTS, BLACKBERRIES,  
11 BLUEBERRIES, BOYSENBERRIES, CHERRIES, CRANBERRIES, GRAPES, NECTARINES,  
12 ORANGES, PEACHES, PLUMS, QUINCE, RASPBERRIES, RED CURRANTS,  
13 STRAWBERRIES, OR TANGERINES.

14       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2005.