

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 865 (Senator Middleton, *et al.*)
Education, Health, and Environmental Affairs

On-Farm Food Establishments - Food Service - Regulation

This bill exempts an on-farm food establishment from any Department of Health and Mental Hygiene (DHMH) or local government regulations relating to the construction or installation of commercial grade kitchen equipment in the establishment.

An on-farm food establishment intending to serve hot food to customers must be: (1) licensed by DHMH to operate a food service establishment; and (2) subject to State and local health regulations governing food safety and contamination. In each county, the health officer must inspect each on-farm food establishment that intends to serve hot food to customers for compliance with State food safety and contamination regulations.

Fiscal Summary

State Effect: General fund expenditures for DHMH could increase if the number of licensees increases to the extent that local health departments were required to hire additional inspectors. The cost for any additional local health department employees would be split 50% general funds, 50% local funds.

Local Effect: To the extent that this bill encourages more farms to operate on-farm food establishments, local licensing revenues could increase. On-farm food establishments would still have to pay a \$150 annual licensing fee to the local health departments. Depending on the number of additional licensees, local expenditures may increase if the local health departments need to hire additional health inspectors. The cost for any additional local health department employees would be split 50% general funds, 50% local funds.

Small Business Effect: Meaningful for on-farm food establishments that would not be required to have a commercial kitchen.

Analysis

Current Law: Except as otherwise allowed under statute, a person may not operate a food establishment unless the person is licensed by DHMH. A DHMH representative may, at any reasonable time, enter and inspect a food establishment and inspect and sample any food item in the establishment. A person may not refuse the inspector access to enter and inspect the food establishment or interfere with the inspection.

DHMH regulations require a food service facility's new equipment to meet the design standards of the National Sanitation Foundation, Ann Arbor, Michigan; Commercial Refrigeration Manufacturers' Association; and Bakery Industry Sanitation Standards Committee or other applicable standards acceptable to the approving authority. If these standards are in conflict with State laws, codes, regulations, or publications, the State laws, codes, regulations, or publications must take precedence. DHMH regulations also set requirements for how food service establishments must store, prepare, display, serve, sell, or transport food to protect it from contamination.

Chapter 312 of 2004 exempted bed and breakfast establishments from any DHMH or local government regulations governing food service facilities related to the construction or installation of commercial grade kitchen equipment in the establishment. Bed and breakfast establishments intending to serve hot meals to renters must be licensed by DHMH and subject to State and local health regulations governing food safety and contamination.

Background: Many farms are turning to retail sales and/or entertainment farming to remain economically viable, according to the St. Mary's County Farm Bureau. These operations typically operate during a single season, primarily on weekends, and want to be able to offer food products to customers while they visit. The bureau advises that the existing requirements for food establishments are too expensive and complicated for the average farmer to meet in order to operate a single season, weekend business.

In fiscal 2004 there were 16 on-farm licenses issued statewide in the following counties: 4 in St. Mary's; 3 each in Cecil, Howard, and Wicomico; 2 in Harford; and 1 in Kent. The 2002 census of agriculture lists 12,198 farms in Maryland. On-farm food establishments must pay an annual \$150 license fee.

Additional Information

Prior Introductions: None.

Cross File: HB 123 (St. Mary's County Delegation) – Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene, Department of Agriculture, St. Mary's County Farm Bureau, Department of Legislative Services

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