

HOUSE BILL 951

J1, C2

71r2182

By: **Delegates Valderrama, Barnes, Braveboy, Frush, Howard, Huckler, Ivey, Mizeur, Pena-Melnyk, Stukes, Vaughn, and Walker**

Introduced and read first time: February 9, 2007

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health – General – Food Establishment – Letter Grades**

3 FOR the purpose of requiring a representative of the Department of Health and
4 Mental Hygiene to post, and requiring a food establishment to display, a certain
5 card in a certain location; authorizing certain food establishments to post a
6 certain card in certain alternate locations; prohibiting a person from damaging,
7 removing, or obscuring a certain card in certain ways; prohibiting a food
8 establishment from operating unless a certain card is in place; requiring a food
9 establishment to maintain certain records that relate to a certain card;
10 specifying certain penalties; requiring the Department to conduct certain
11 inspections of food establishments and adopt certain regulations for issuing
12 certain letter grades to food establishments based on certain inspections;
13 specifying a certain period for validity of a letter grade; and generally relating
14 to the inspection and grading of food establishments by the Department.

15 BY repealing and reenacting, without amendments,
16 Article – Health – General
17 Section 21–312 and 21–316
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2006 Supplement)

20 BY adding to
21 Article – Health – General
22 Section 21–312.1
23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2005 Replacement Volume and 2006 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Health – General
4 Section 21–313
5 Annotated Code of Maryland
6 (2005 Replacement Volume and 2006 Supplement)

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

9 **Article – Health – General**

10 21–312.

11 Each licensee shall display the license conspicuously in the food establishment.

12 **21–312.1.**

13 (A) A REPRESENTATIVE OF THE DEPARTMENT SHALL POST, AND EACH
14 LICENSEE SHALL DISPLAY, A LETTER GRADE CARD ISSUED UNDER § 21–313 OF
15 THIS SUBTITLE:

16 (1) IN THE FRONT WINDOW OF THE FOOD ESTABLISHMENT
17 WITHIN 5 FEET OF THE FRONT DOOR;

18 (2) IN A DISPLAY CASE MOUNTED ON THE OUTSIDE FRONT WALL
19 OF THE FOOD ESTABLISHMENT WITHIN 5 FEET OF THE FRONT DOOR; OR

20 (3) IN A LOCATION DETERMINED BY A REPRESENTATIVE OF THE
21 DEPARTMENT THAT SHALL ENSURE PROPER NOTICE TO THE GENERAL PUBLIC.

22 (B) IF A FOOD ESTABLISHMENT IS OPERATED IN THE SAME BUILDING
23 OR SHARES A COMMON ENTRANCE WITH A SEPARATELY LICENSED FOOD
24 ESTABLISHMENT, OR BOTH, A REPRESENTATIVE OF THE DEPARTMENT SHALL
25 POST THE LETTER GRADE CARD IN THE RECEPTION AREA OF THE FOOD
26 ESTABLISHMENT, OR IN A LOCATION DETERMINED BY A REPRESENTATIVE OF
27 THE DEPARTMENT.

28 (C) A PERSON MAY NOT DEFACE, MAR, CAMOUFLAGE, HIDE, OR REMOVE
29 THE LETTER GRADE CARD.

1 **(D) A FOOD ESTABLISHMENT MAY NOT OPERATE UNLESS THE LETTER**
2 **GRADE CARD IS IN PLACE.**

3 **(E) A FOOD ESTABLISHMENT SHALL ENSURE THAT A COPY OF ANY**
4 **INSPECTION REPORT FORM ASSOCIATED WITH THE CURRENT LETTER GRADE**
5 **CARD SHALL BE:**

6 **(1) MAINTAINED AT THE FOOD ESTABLISHMENT;**

7 **(2) AVAILABLE TO THE PUBLIC ON REQUEST; AND**

8 **(3) RETAINED UNTIL A REPRESENTATIVE OF THE DEPARTMENT**
9 **COMPLETES THE NEXT INSPECTION OF THE FOOD ESTABLISHMENT AND ISSUES**
10 **A NEW INSPECTION REPORT AND LETTER GRADE CARD.**

11 **(F) (1) IN ADDITION TO ANY OTHER PENALTY APPLICABLE AT LAW, A**
12 **PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION SHALL BE LIABLE**
13 **FOR A CIVIL PENALTY OF NOT LESS THAN \$50 AND NOT MORE THAN \$250.**

14 **(2) EACH DAY ON WHICH A VIOLATION OCCURS CONSTITUTES A**
15 **SEPARATE OFFENSE.**

16 21-313.

17 **(A) THE DEPARTMENT SHALL CONDUCT PERIODIC, UNANNOUNCED**
18 **INSPECTIONS OF A FOOD ESTABLISHMENT TO DETERMINE COMPLIANCE WITH**
19 **ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS.**

20 **(B) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE**
21 **DEVELOPMENT AND USE OF AN INSPECTION METHOD THAT SHALL:**

22 **(1) REFLECT THE FOOD ESTABLISHMENT'S DEGREE OF**
23 **COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS AND**
24 **REGULATIONS; AND**

25 **(2) YIELD A FINAL INSPECTION SCORE, EXPRESSED AS A**
26 **PERCENTAGE.**

1 [(a)] (C) To enforce this subtitle, a representative of the Department, at any
2 reasonable time, may:

3 (1) Enter and inspect any food establishment; and

4 (2) Inspect and sample any item of food that is in a food
5 establishment.

6 [(b)] (D) A person may not:

7 (1) Refuse to grant access to a representative of the Department who
8 requests to enter and inspect a food establishment under this section; or

9 (2) Interfere with any inspection under this section.

10 (E) (1) **AT THE CONCLUSION OF THE INSPECTION, A**
11 **REPRESENTATIVE OF THE DEPARTMENT SHALL ISSUE A LETTER GRADE TO THE**
12 **FOOD ESTABLISHMENT.**

13 (2) **THE LETTER GRADE SHALL BE BASED ON THE FINAL**
14 **PERCENTAGE SCORE OF THE INSPECTION AS FOLLOWS:**

15 (I) **A GRADE OF “A” SHALL INDICATE A FINAL**
16 **PERCENTAGE SCORE OF 90% OR HIGHER;**

17 (II) **A GRADE OF “B” SHALL INDICATE A FINAL**
18 **PERCENTAGE SCORE LESS THAN 90% BUT NOT LESS THAN 80%; AND**

19 (III) **A GRADE OF “C” SHALL INDICATE A FINAL**
20 **PERCENTAGE SCORE LESS THAN 80% BUT NOT LESS THAN 70%.**

21 (F) (1) **THE REPRESENTATIVE OF THE DEPARTMENT SHALL POST A**
22 **LETTER GRADE CARD IN A CLEARLY VISIBLE LOCATION AS PROVIDED UNDER §**
23 **21-312.1 OF THIS SUBTITLE AT A FOOD ESTABLISHMENT ON COMPLETION OF A**
24 **PERIODIC INSPECTION.**

25 (2) **THE CARD SHALL INDICATE THE LETTER GRADE OF THE**
26 **ESTABLISHMENT AS DETERMINED BY A REPRESENTATIVE OF THE**
27 **DEPARTMENT, AND MAY SPECIFY THE FINAL PERCENTAGE SCORE OF THE**
28 **INSPECTION, IN THE DISCRETION OF A REPRESENTATIVE OF THE DEPARTMENT.**

1 **(G) A LETTER GRADE SHALL REMAIN VALID UNTIL A REPRESENTATIVE**
2 **OF THE DEPARTMENT COMPLETES THE NEXT PERIODIC INSPECTION OF THE**
3 **FOOD ESTABLISHMENT.**

4 21-316.

5 (a) Except as otherwise provided in Title 10, Subtitles 2 and 4 of the State
6 Government Article, before the Department takes any final action under § 21-311 or §
7 21-315 of this subtitle, the Secretary shall give the person against whom the action is
8 contemplated an opportunity for a hearing before the Department.

9 (b) The Department shall give notice and hold the hearing in accordance
10 with Title 10, Subtitle 2 of the State Government Article.

11 (c) The Department shall send the hearing notice to the applicant or licensee
12 by certified mail, return receipt requested, bearing a postmark from the United States
13 Postal Service.

14 (d) Within 30 days after the hearing required under this section, the
15 Department shall decide the issue and immediately notify the parties to the hearing.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2007.