

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 951 (Delegate Valderrama, *et al.*)
 Health and Government Operations

Health - General - Food Establishment - Letter Grades

This bill requires food establishments to display a letter grade issued to reflect the establishment’s level of compliance with all applicable federal, State, and local laws and regulations.

Fiscal Summary

State Effect: General fund expenditures in the Department of Health and Mental Hygiene (DHMH) could increase by \$107,100 in FY 2008 to implement the letter grading system. Out-years include annualization and inflation. Potential minimal general fund revenue increase due to the bill’s penalty provision.

| (in dollars) | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|----------------|-------------|------------|------------|------------|------------|
| GF Revenue | - | - | - | - | |
| GF Expenditure | 107,100 | 63,300 | 66,600 | 70,100 | 73,800 |
| Net Effect | (\$107,100) | (\$63,300) | (\$66,600) | (\$70,100) | (\$73,800) |

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal expenditure increase from implementing necessary changes based on for new grading system.

Small Business Effect: Potential minimal expenditure increase to pay civil penalties and to upgrade facilities.

Analysis

Bill Summary: A representative of DHMH must post, and each food establishment licensee must display, a letter grade card in the front window within five feet of the front door, in a display case mounted on the outside front wall within five feet of the front door or in a location that ensures proper notice to the public, as determined by the DHMH representative.

A person is prohibited from defacing, marring, camouflaging, hiding, or removing the letter grade card. Unless the establishment has the letter grade card in place, it may not operate. The food establishment must also ensure that a copy of the inspection report form associated with the posted letter grade is maintained at the establishment, is available to the public on request, and is retained until completion of the next inspection and issuance of a new report and letter grade card. A person who violates these provisions is liable for a civil penalty ranging from \$50 to \$250 for each separate offense. Each day on which a violation occurs is a separate offense.

DHMH must conduct periodic unannounced inspections of a food establishment to determine compliance with all applicable federal, State, and local laws and regulations. DHMH must adopt regulations for an inspection method that reflects the establishment's degree of compliance with all laws and regulations and yields a final inspection score, expressed as a percentage. At the end of the inspection, the DHMH representative must issue a letter grade to the food establishment. The letter grade "A" indicates a final percentage score of 90% or higher; "B" indicates a score that is less than 90%, but at least 80%; a "C" indicates a final percentage score less than 80%, but at least 70%. A letter grade remains valid until a DHMH representative completes the next periodic inspection of the food establishment.

Current Law: A "food establishment" means a food service facility or a food processing plant. A "food service facility" means a place where food or drink is prepared for sale or service on the premises or elsewhere, or any operation where food is served to or provided for the public, with or without charge. A "food processing plant" means any place used for, or in connection with, the commercial manufacturing, preparing, processing, packaging, canning, freezing, storing, distributing, labeling, or holding of food or drink for human consumption. A food processing plant includes a bakery, cannery, crab meat picking plant, and other entities as specified in statute.

Except as otherwise provided, a person may not operate a food establishment unless the person is licensed by DHMH. A separate license is required for each food establishment that a person owns or operates. A license is not transferable, except, as provided by regulation, from person to person upon the death of a licensee or from location to

location. A license issued by a county health department pursuant to local authority constitutes the license required under State law, unless DHMH determines, after a hearing, that the licensee is not in compliance with State law and regulations. Two separate licenses may not be issued solely for the regulation of a food establishment. Unless otherwise provided, a food establishment license expires one year from the date of issuance or renewal. Each licensee must display the food establishment license conspicuously in the establishment.

At any reasonable time, a DHMH representative may enter and inspect any food establishment and inspect and sample any food item in the establishment. A person is prohibited from refusing to grant access to a DHMH representative who requests to enter and inspect a food establishment and is prohibited from interfering with any inspection.

DHMH may deny a license application, suspend or revoke a food establishment license, or refuse to renew a license if the applicant or licensee does not meet the requirements of State law and regulations regarding the operation of food establishments or an applicant or licensee fraudulently or deceptively obtains or attempts to obtain a license. Before DHMH takes final action to deny, suspend, or revoke a license, the license applicant or licensee has a right to notice and a hearing before DHMH. A person aggrieved by a final decision of DHMH may take a direct judicial appeal.

State Expenditures: General fund expenditures for DHMH could increase \$107,126 in fiscal 2008, which accounts for the bill’s October 1, 2007 effective date. The estimate reflects the cost of hiring one sanitarian to develop a grading system and to verify that the system is being applied equitably in the different types of food establishments that exist across the State. This position would also be responsible for training once the new system was established. Included in this estimate is \$56,000 to create new forms based on the new grading system and the elimination of current forms. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|---|------------------|
| Salary and Fringe Benefits | \$46,083 |
| New Forms | 56,000 |
| Other Operating Expenses | <u>5,043</u> |
| Total FY 2008 State Expenditures | \$107,126 |
| Positions | 1 |

Future year expenditures reflect: (1) a full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

DHMH advises that an additional \$108,963 in fiscal 2008 and \$112,202 in fiscal 2009 would be needed for contractual employees to develop the grading system. However, Legislative Services advises that DHMH should be able to provide the administrative support necessary to the sanitarian who would be responsible for the grading system development without the added expense of contractual employees.

Local Fiscal Effect: Kent County advises that the bill would not have a fiscal impact and that the health department previously used a similar grading system. Montgomery and Washington counties advise that the bill would not have a fiscal impact. Worcester County advises that it could incur expenditures of \$10,000 from changing to a new grading system and additional enforcement.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Kent County, Montgomery County, Prince George's County, Washington County, Worcester County, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - March 13, 2007
ncs/jr

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