

HOUSE BILL 1542

J1, M4

EMERGENCY BILL

9lr3001

By: ~~Delegate Haddaway~~ Delegates Haddaway, Donoghue, Eckardt, Elmore, Mathias, Cane, Rudolph, Conway, Kach, Krebs, Kullen, McDonough, Pena-Melnyk, Riley, and Tarrant

Introduced and read first time: March 9, 2009

Assigned to: Rules and Executive Nominations

Re-referred to: Health and Government Operations, March 16, 2009

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **Health – ~~Regulation and Permitting of Egg Sellers at Farmers’ Markets~~**
3 **Licensing of Food Establishments – Exception for Egg Producers**

4 FOR the purpose of ~~making an exception to the authority of the Secretary of Health~~
5 ~~and Mental Hygiene to regulate the distribution in the State of a certain food;~~
6 ~~requiring, for certain purposes, that a person selling eggs at a farmers’ market~~
7 ~~be treated by the Department of Health and Mental Hygiene or a local health~~
8 ~~department the same as if the person were selling the eggs from the farm on~~
9 ~~which the eggs were produced; defining certain terms; exempting certain~~
10 ~~persons who produce shell eggs and sell the shell eggs directly to the public from~~
11 ~~a certain food establishment licensing requirement; making this Act an~~
12 ~~emergency measure; and generally relating to the ~~regulation and permitting~~~~
13 ~~exemption of egg producers ~~selling eggs at farmers’ markets~~ from food~~
14 ~~establishment licensing requirements.~~

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section ~~21-211(a)~~ 21-305(a) and (b)
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2008 Supplement)

20 ~~BY adding to~~
21 ~~Article – Health – General~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Section 21-211.1~~
2 ~~Annotated Code of Maryland~~
3 ~~(2005 Replacement Volume and 2008 Supplement)~~

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

6 **Article - Health - General**

7 21-305.

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

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

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

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

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

20 (5) An excluded organization may operate a food establishment
21 without a license unless the excluded organization has been issued a license under §
22 21-304(a)(2)(ii) of this subtitle.

23 (6) **A LICENSE IS NOT REQUIRED FOR A PERSON WHO:**

24 (I) **PRODUCES SHELL EGGS;**

25 (II) **SELLS THE SHELL EGGS DIRECTLY TO THE PUBLIC; AND**

26 (III) **IS REGISTERED WITH OR INSPECTED BY THE**
27 **SECRETARY OF AGRICULTURE UNDER § 4-310 OR § 4-311.1 OF THE**
28 **AGRICULTURE ARTICLE.**

29 [(6)] (7) Nothing in this subtitle shall preempt the right of a county
30 to require a permit under the authority provided by a local law, ordinance, or
31 regulation if this subtitle does not require the food establishment to obtain a State
32 license.

1 ~~21-211.~~

2 (a) ~~[By] EXCEPT AS PROVIDED IN § 21-211.1 OF THIS SUBTITLE, BY~~ the
3 ~~issuance, denial, or suspension of permits as provided in this section, the Secretary~~
4 ~~may regulate the distribution in this State of any class of food that may be~~
5 ~~contaminated with microorganisms.~~

6 ~~21-211.1.~~

7 (A) (1) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE~~
8 ~~MEANINGS INDICATED.~~

9 (2) ~~“FARMERS’ MARKET” MEANS A PUBLIC MARKET IN THE~~
10 ~~STATE WHERE PRODUCERS OF FRESH RAW AGRICULTURAL PRODUCTS SELL~~
11 ~~THE PRODUCTS DIRECTLY TO THE PUBLIC.~~

12 (3) ~~“RAW AGRICULTURAL PRODUCTS” INCLUDES EGGS, GRAINS,~~
13 ~~FLOWERS, FRUITS, AND VEGETABLES SUPPLIED DIRECTLY FROM THE FARM ON~~
14 ~~WHICH THEY WERE PRODUCED.~~

15 (B) ~~FOR PURPOSES OF REGULATION AND PERMITTING BY THE~~
16 ~~DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR A LOCAL HEALTH~~
17 ~~DEPARTMENT, A PERSON SELLING EGGS AT A FARMERS’ MARKET SHALL BE~~
18 ~~TREATED THE SAME AS IF THE PERSON WERE SELLING THE EGGS ON THE FARM~~
19 ~~AT WHICH THE EGGS WERE PRODUCED.~~

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect~~
21 ~~October 1, 2009~~ is an emergency measure, is necessary for the immediate preservation
22 of the public health or safety, has been passed by a yea and nay vote supported by
23 three-fifths of all the members elected to each of the two Houses of the General
24 Assembly, and shall take effect from the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.