

CHAPTER 478

(House Bill 1542)

AN ACT concerning

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

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

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

~~BY adding to~~
~~Article – Health – General~~
~~Section 21-211.1~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2008 Supplement)~~

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

Article – Health – General

21-305.

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

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

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

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

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

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

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

(I) PRODUCES SHELL EGGS;

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

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

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

~~21-211.~~

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

~~21-211.1.~~

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

~~(2) "FARMERS' MARKET" MEANS A PUBLIC MARKET IN THE STATE WHERE PRODUCERS OF FRESH RAW AGRICULTURAL PRODUCTS SELL THE PRODUCTS DIRECTLY TO THE PUBLIC.~~

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

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

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

Approved by the Governor, May 7, 2009.