

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1542 (Delegate Haddaway, *et al.*)

Health and Government Operations

Finance

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Health - Licensing of Food Establishments - Exception for Egg Producers

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This emergency bill authorizes a person who produces eggs and sells them directly to the public to do so without a food establishment license if he or she is registered with, or inspected by, the Secretary of Agriculture.

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Fiscal Summary

**State Effect:** The bill does not affect State governmental finances or operations. The Maryland Department of Agriculture (MDA) already inspects eggs.

**Local Effect:** Minimal decrease in revenues for some local health departments that, under the bill, no longer charge a fee for persons to sell eggs at farmers' markets.

**Small Business Effect:** Minimal decrease in expenditures for small farmers who, under the bill, no longer pay a fee to some local health departments to sell eggs at farmers' markets.

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Analysis

**Current Law:** MDA oversees the sale of eggs in the State. State standards for egg quality are the same as those of the U.S. Department of Agriculture, where applicable, and eggs that are donated, sold, advertised, or offered for sale must meet these standards. Egg packers and distributors must register with MDA to operate. An egg packer or distributor who keeps 3,000 or fewer chickens and who sells, offers, or exposes for sale eggs only from those chickens must register with the Secretary, but is exempt from paying any registration fee.

With certain exceptions that allow for a waiver, a person has to be licensed by the Department of Health and Mental Hygiene (DHMH) to operate a food service establishment *unless* the food establishment is operated by an excluded organization. For example, DHMH may waive the license requirement for (1) farmers' markets, if the foods offered or sold are only fresh fruits and vegetables, and other foods specified in regulations such as jams; and (2) for bake sales, where only nonpotentially hazardous bakery goods are sold in conjunction with a fundraising event.

Food establishment licensees that violate any laws regulating the industry are guilty of a misdemeanor and on conviction are subject to fines of up to \$1,000 and/or up to 90 days imprisonment for a first violation. For a second violation, the maximum penalty is a \$2,500 fine and/or one-year imprisonment. In addition, violators are subject to civil penalties of up to \$5,000, collected by the District Court for any county, and may be enjoined from continuing the violation.

A nonpotentially hazardous food is defined by the U.S. Food and Drug Administration and in regulations as a (1) hard-boiled shell egg that has been air-cooled with the shell intact; (2) food with a water activity (aw) value of 0.85 or less; (3) food with a pH level of 4.6 or below when measured at 75 degrees Fahrenheit; (4) commercially sterile food in a hermetically sealed container; or (5) food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of *Salmonella Enteritidis* in eggs or *Clostridium botulinum* cannot occur.

**Background:** MDA advises that it inspects eggs at farmers' markets, farms, retail outlets, packer establishments, restaurants, and wholesalers as part of its egg sale oversight responsibilities. MDA advises that it inspects eggs sold at farmers' markets about once a summer. MDA further advises that approximately 100 of the 250 small producers of eggs sell some of their eggs at farmers' markets.

MDA advises that some local health departments require farmers who sell eggs at a farmers' market to obtain a license from the county. DHMH advises that at least two counties, Frederick and Worcester counties, require such a license.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Agriculture, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 24, 2009  
mlm/mwc Revised - House Third Reader - April 2, 2009

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