

Chapter 566

(House Bill 611)

AN ACT concerning

State Highways – Mobile Produce Vendors – Required State Lease

FOR the purpose of expanding the application of a provision of law that prohibits certain food vendors from operating on a State highway right-of-way without a certain State lease to include mobile produce vendors; authorizing the State to require a mobile seafood or produce vendor to submit an application and pay a certain fee; prohibiting the State from entering into a lease with a mobile produce vendor unless the applicable county licenses mobile produce vendors; authorizing the State Highway Administration to adopt certain regulations; prohibiting a mobile produce vendor lessee from operating at certain locations; providing that this Act does not diminish the authority of a county to license and regulate mobile produce vendors; establishing certain criminal penalties for a violation of this Act; providing for the enforcement of this Act; defining a certain term; making certain stylistic changes; and generally relating to the operations of mobile seafood and produce vendors.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 24-301 through 24-303

Annotated Code of Maryland

(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation

Section 24-304

Annotated Code of Maryland

(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

24-301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Established place of business" means any permanent building or structure from which a permanent business is conducted during normal business hours throughout the year.

(2) An established place of business does not include a tent, temporary stand or other temporary quarters, or permanent quarters occupied under a temporary arrangement.

(c) "Mobile seafood **OR PRODUCE** vendor" means a person who sells or offers for sale any seafood **OR PRODUCE**:

(1) While outdoors on foot;

(2) From any vehicle or conveyance, whether or not the vehicle or conveyance is in operating condition; or

(3) From any tent, temporary stand, roadside stand, roadside market, or other quarters that is not an established place of business.

(d) (1) "**PRODUCE**" MEANS ANY FRUIT OR VEGETABLE PRODUCT OF THE SOIL THAT IS INTENDED FOR HUMAN CONSUMPTION.

(2) "**PRODUCE**" DOES NOT INCLUDE A CANNED, FROZEN, DRIED, OR PICKLED PRODUCT.

(E) "Right-of-way" includes any highway area or highway structure and any property adjacent to a highway acquired for the operation or use of the highway.

[(e)] (F) "Seafood" means any finfish, crustacean, or mollusk, live or dead, or any part, egg, offspring, or body of any finfish, crustacean, or mollusk, that is intended for human consumption.

[(f)] (G) "Shopping center" means any 5 or more contiguous established places of business which share common parking facilities of 25 parking spaces or more.

[(g)] (H) "State highway" means any public highway owned by this State.

24-302.

This subtitle does not:

(1) Diminish any authority of Anne Arundel County, Howard County, or a municipal corporation to license and regulate mobile seafood vendors;

(2) Apply to charitable or nonprofit vendors who sell seafood at short-term festivals or other short-term events; [or]

(3) Apply in Calvert County and in St. Mary's County for those persons selling their own **SEAFOOD** catch; **OR**

(4) DIMINISH THE AUTHORITY OF A COUNTY TO LICENSE AND REGULATE MOBILE PRODUCE VENDORS.

24-303.

(a) **(1)** When located on the right-of-way of any State highway, a mobile seafood **OR PRODUCE** vendor may not sell, or offer for sale, any seafood **OR PRODUCE**, unless the [mobile seafood] vendor has a lease from the State that [permits] **ALLOWS** the [mobile seafood] vendor to sell, or offer for sale, seafood **OR PRODUCE**.

(2) THE STATE MAY REQUIRE A MOBILE SEAFOOD OR PRODUCE VENDOR TO SUBMIT AN APPLICATION AND PAY A REASONABLE FEE TO BE APPLIED TO ADMINISTRATIVE COSTS.

(3) THE STATE MAY NOT ENTER INTO A LEASE WITH A MOBILE PRODUCE VENDOR UNLESS THE APPLICABLE COUNTY LICENSES MOBILE PRODUCE VENDORS.

(b) A mobile seafood **OR PRODUCE** vendor may not sell, or offer for sale, any seafood **OR PRODUCE**, when located:

(1) Within 50 yards of any vehicular entrance to or exit from a school or place of worship, unless the [mobile seafood dealer] **VENDOR** has written permission of the applicable school board or person who is responsible for the buildings and grounds of the place of worship;

(2) Within 100 yards of any vehicular entrance to or exit from any shopping center;

(3) In the parking lot of any shopping center, unless the [mobile seafood] vendor has written permission of the owner of the shopping center and conforms to applicable local laws and ordinances;

(4) Within an unsafe distance, as determined by the local authorities, from the edge of any roadway;

(5) On any roadway; or

(6) On [privately-owned] PRIVATE property adjoining a State highway, unless the [mobile seafood] vendor owns[, leases,] or LEASES THE PROPERTY OR has written permission [of the] FROM THE PROPERTY owner [of the privately-owned property].

(C) THE STATE HIGHWAY ADMINISTRATION MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

24-304.

(a) A violation of this subtitle is a misdemeanor punishable by the penalty specified in § 27-101(b) of this article.

(b) The charging of a person with a violation of this subtitle shall be by means of a traffic citation in the form determined under § 1-605(d) of the Courts Article.

(c) The charging of a person with a violation of this section may be performed by any State or local police officer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.