

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 101
Finance

(Senator Stone)

Public Health - Peanut Warning - Vending Machines

This bill requires operators of vending machines that sell foods containing peanuts to post a warning label on the vending machine to inform consumers some foods in the vending machine may contain peanuts.

Fiscal Summary

State Effect: None. Vending machines are licensed, and regulations are enforced, locally.

Local Effect: Assuming enforcement of the bill's requirement is complaint-based, local health departments will not need additional staff to monitor compliance.

Small Business Effect: Potential minimal.

Analysis

Current Law: Vending machine licenses are State licenses issued by the clerk of the court in each county. With the exception of Baltimore City, a license is required for each location where a vending machine is operated. Separate licensure for each vending machine in a given location is not required. Vending machines used exclusively for prepackaged and commercially sealed foods that are not potentially hazardous are not required to be licensed. Baltimore City requires a license for each individual vending machine. Vending machine licenses must be renewed on an annual basis.

Vending machine licensees must display an identification label on each machine, but State law does not address the presence of peanuts or other food allergens in vending machines.

Under the Maryland Food, Drug, and Cosmetic Act, the Secretary of Health and Mental Hygiene or a representative of the Secretary may enter and inspect any factory, warehouse, or other establishment in which any food, drug device, or cosmetic is manufactured, processed, packed, or held for a commercial purpose. The Department of Health and Mental Hygiene may adopt regulations to establish fees not to exceed the costs associated with inspections or investigations, and licenses may be revoked if a licensee fails to meet requirements under law.

Background: Peanuts are one of the most common food allergens, affecting an estimated 3 million Americans. Allergic reactions to peanuts can be mild or life-threatening. Anaphylaxis, the most severe allergic reaction, can occur following the ingestion of food allergens. Anaphylaxis leads to constricted airways in the lungs and suffocation and can occur within one minute of smelling, eating, or touching a peanut product. Each year it is estimated that there are 30,000 emergency room visits, 2,000 hospitalizations, and 150 deaths related to anaphylaxis.

Food allergies affect approximately 2% of adults and up to 8% of children in the United States. Some food allergies can be outgrown but there is no cure for them. Strict avoidance of food allergens is the main strategy for preventing serious health consequences.

Small Business Effect: Potential minimal increase in expenditures for vending machine operators due to the purchasing of peanut warning labels. In 2009, approximately 2,000 vending machine licenses were issued in the State. There is no data regarding how many of these vending machines are snack vending machines or other types of vending machines, such as those for soft drinks. Therefore, it is unknown how many snack vending machines would require this new label.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): U.S. Food and Drug Administration, Comptroller's Office, Department of Health and Mental Hygiene, Department of Legislative Services

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