

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 127 (Delegate Kipke)  
Health and Government Operations

---

**Public Health - Food Establishments - Transportation of Perishable Foods**

---

This bill requires the Department of Health and Mental Hygiene (DHMH) to adopt regulations that establish standards for the transportation of perishable foods from a wholesale food warehouse or distribution center to a food establishment. In addition, wholesale food warehouses or distribution centers have to post signs displaying these regulations. Violators are subject to civil fines set by DHMH.

---

**Fiscal Summary**

**State Effect:** None. The bill codifies current practice.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

---

**Analysis**

**Current Law/Background:** A food establishment must be licensed by DHMH and is subject to inspections. A food establishment is a food service facility or a food processing plant. If DHMH finds that a food establishment has violated the Maryland Food, Drug, and Cosmetic Act, or any regulation adopted under the Act, the licensee must be notified of the specific findings and the specific, reasonable date by which the licensee must correct the violations or deficiencies. If corrections are not made by the specified date, DHMH may suspend or revoke the food establishment's license.

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.

Any vehicle that is used to transport food or from which any food is sold must be kept in a clean and sanitary condition at all times. While not specifically required by law, DHMH has regulations regarding the transportation of perishable foods. These regulations are enforced by:

- reviewing plans from new food establishments, including plans for maintaining safe food temperatures and plans for food protection during transportation;
- inspecting transportation vehicles and any transportation-related equipment to assure proper sanitation and the ability to maintain food protection and temperature requirements throughout the distribution process; and
- levying fines on food establishments and food processing plants that fail to meet these regulations.

The majority of local health departments do not enforce regulations for wholesale food warehouses or distribution centers. However, some home rule counties (Charles and Prince George's counties, as well as Baltimore City) inspect food processing plants locally. Home rule counties have the same regulations that govern the transportation of perishable goods as those of DHMH.

**Small Business Effect:** The U.S. Census Bureau's County Business Patterns (2007) data show that there are 9,916 food establishments in the State with 170,613 employees, and an annual payroll of \$2.5 billion. Small businesses comprise a large proportion of Maryland's food processing plants. The bill is not expected to have a significant impact on the number of fines imposed on food establishments.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** U.S. Census Bureau, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - January 29, 2010  
mam/mwc

---

Analysis by: Erin McMullen

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510