

# SENATE BILL 390

J1, P1

3lr0789  
CF HB 9

---

By: **Senator Raskin**

Introduced and read first time: January 28, 2013

Assigned to: Finance

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2013

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health – Food Allergy Awareness, Food Safety, and Food Service Facility**  
3 **Letter Grading – Posting Requirement and Task Force**

4 FOR the purpose of requiring certain food establishments to display, in a certain  
5 manner and location, a certain poster relating to food allergies ~~and to include on~~  
6 ~~a menu provided by the food establishment a notice to a customer that the~~  
7 ~~customer should inform the server of any food allergies; requiring, on or before a~~  
8 certain date, the Department of Health and Mental Hygiene, in consultation  
9 with certain entities, to create and make available on its Web site a certain  
10 poster ~~and certain notice; requiring certain individuals to view a certain video~~  
11 ~~and be knowledgeable about certain issues concerning food allergies and food~~  
12 ~~preparation under certain circumstances; requiring the Department, in~~  
13 ~~consultation with certain entities, to develop a certain program for food~~  
14 ~~establishments to be designated as food allergy friendly, issue certain guidelines~~  
15 ~~and requirements regarding the program, and maintain and make available to~~  
16 ~~the public on its Web site a certain list of food establishments; authorizing the~~  
17 ~~Department to adopt regulations to carry out certain provisions of this Act;~~  
18 ~~requiring the Governor to annually proclaim a certain week as Food Allergy~~  
19 ~~Awareness Week; requiring the Department, in consultation with certain~~  
20 ~~entities, to report to certain committees of the General Assembly on or before a~~  
21 ~~certain date regarding the impact of certain provisions of this Act; defining a~~  
22 ~~certain term; and generally relating to food allergy awareness; establishing a~~  
23 **Task Force to Study Food Allergy Awareness, Food Safety, and Food Service**  
24 **Facility Letter Grading; providing for the membership and chair of the Task**  
25 **Force; authorizing the Task Force to form subcommittees from among its**

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 members; requiring the Department of Health and Mental Hygiene to provide  
 2 staff for the Task Force; providing that a member of the Task Force may not  
 3 receive certain compensation but is entitled to certain reimbursement;  
 4 providing for the duties of the Task Force; requiring the Task Force to report  
 5 certain findings and recommendations, on or before a certain date, to the  
 6 Governor and certain committees of the General Assembly; providing for the  
 7 effective dates of this Act; providing for the termination of certain provisions of  
 8 this Act; and generally relating to food allergy awareness, food safety, and food  
 9 service facility letter grading.

10 BY adding to

11 Article – Health – General  
 12 Section 21–330.2  
 13 Annotated Code of Maryland  
 14 (2009 Replacement Volume and 2012 Supplement)

15 ~~BY adding to~~

16 ~~Article – State Government~~  
 17 ~~Section 13–601 to be under the new subtitle “Subtitle 6. Commemorative~~  
 18 ~~Weeks”~~  
 19 ~~Annotated Code of Maryland~~  
 20 ~~(2009 Replacement Volume and 2012 Supplement)~~

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

23 **Article – Health – General**

24 **21–330.2.**

25 **(A) ~~(1)~~ BEGINNING MARCH 1, 2014, A FOOD ESTABLISHMENT SHALL:**

26 **~~(1)~~ DISPLAY DISPLAY PROMINENTLY IN THE STAFF AREA**  
 27 **OF THE FOOD ESTABLISHMENT A POSTER RELATING TO FOOD ALLERGY**  
 28 **AWARENESS THAT INCLUDES INFORMATION REGARDING THE RISK OF AN**  
 29 **ALLERGIC REACTION;~~AND~~**

30 **~~(1)~~ INCLUDE ON A MENU PROVIDED BY THE FOOD**  
 31 **ESTABLISHMENT A NOTICE TO A CUSTOMER THAT THE CUSTOMER SHOULD**  
 32 **INFORM THE SERVER OF ANY FOOD ALLERGIES.**

33 **~~(2)~~ (B) ON OR BEFORE JANUARY 1, 2014, THE DEPARTMENT,**  
 34 **IN CONSULTATION WITH THE RESTAURANT ASSOCIATION OF MARYLAND AND**  
 35 **THE FOOD ALLERGY & ANAPHYLAXIS NETWORK FOOD ALLERGY RESEARCH**  
 36 **AND EDUCATION, SHALL CREATE AND MAKE AVAILABLE ON ITS WEB SITE:**

1                   ~~(I) THE THE POSTER REQUIRED TO BE DISPLAYED UNDER~~  
2 ~~PARAGRAPH (1)(I) OF THIS SUBSECTION (A) OF THIS SECTION.; AND~~

3                   ~~(II) THE NOTICE REQUIRED TO BE INCLUDED ON A MENU~~  
4 ~~UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.~~

5           ~~(B) (1) IN THIS SUBSECTION, "PERSON IN CHARGE" MEANS THE~~  
6 ~~INDIVIDUAL WHO IS:~~

7                   ~~(I) PRESENT AT A FOOD ESTABLISHMENT; AND~~

8                   ~~(II) RESPONSIBLE FOR THE OPERATION OF THE FOOD~~  
9 ~~ESTABLISHMENT.~~

10                   ~~(2) IN ORDER TO BE DESIGNATED THE PERSON IN CHARGE BY A~~  
11 ~~FOOD ESTABLISHMENT, AN INDIVIDUAL SHALL:~~

12                   ~~(I) VIEW A VIDEO CONCERNING FOOD ALLERGIES THAT~~  
13 ~~HAS BEEN APPROVED BY THE DEPARTMENT, IN CONSULTATION WITH THE~~  
14 ~~RESTAURANT ASSOCIATION OF MARYLAND AND THE FOOD ALLERGY &~~  
15 ~~ANAPHYLAXIS NETWORK; AND~~

16                   ~~(II) BE KNOWLEDGEABLE ABOUT RELEVANT ISSUES~~  
17 ~~CONCERNING FOOD ALLERGIES AND FOOD PREPARATION.~~

18           ~~(C) THE DEPARTMENT SHALL:~~

19                   ~~(1) DEVELOP, IN CONSULTATION WITH THE RESTAURANT~~  
20 ~~ASSOCIATION OF MARYLAND AND THE FOOD ALLERGY & ANAPHYLAXIS~~  
21 ~~NETWORK, A VOLUNTARY PROGRAM FOR FOOD ESTABLISHMENTS TO BE~~  
22 ~~DESIGNATED AS FOOD ALLERGY FRIENDLY;~~

23                   ~~(2) ISSUE GUIDELINES AND REQUIREMENTS THAT A FOOD~~  
24 ~~ESTABLISHMENT MUST MEET TO BE DESIGNATED AS FOOD ALLERGY FRIENDLY,~~  
25 ~~INCLUDING A REQUIREMENT TO MAINTAIN ON THE PREMISES OF THE FOOD~~  
26 ~~ESTABLISHMENT AND MAKE AVAILABLE TO THE PUBLIC A MASTER LIST OF ALL~~  
27 ~~INGREDIENTS USED IN THE PREPARATION OF EACH FOOD ITEM AVAILABLE FOR~~  
28 ~~PUBLIC CONSUMPTION; AND~~

29                   ~~(3) MAINTAIN AND MAKE AVAILABLE TO THE PUBLIC ON THE~~  
30 ~~DEPARTMENT'S WEB SITE A LIST OF FOOD ESTABLISHMENTS THAT HAVE BEEN~~  
31 ~~DESIGNATED AS FOOD ALLERGY FRIENDLY.~~

~~(D) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

~~Article State Government~~

~~SUBTITLE 6. COMMEMORATIVE WEEKS.~~

~~13-601.~~

~~THE GOVERNOR ANNUALLY SHALL PROCLAIM THE SECOND FULL WEEK OF MAY AS FOOD ALLERGY AWARENESS WEEK.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September 30, 2015, the Department of Health and Mental Hygiene, in consultation with the Restaurant Association of Maryland and the Food Allergy & Anaphylaxis Network, shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, on the impact of § 21-330.2 of the Health General Article, as enacted by Section 1 of this Act, including the compliance rate of food establishments.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force to Study Food Allergy Awareness, Food Safety, and Food Service Facility Letter Grading.

(b) The Task Force consists of the following members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) one representative of the Department of Health and Mental Hygiene, appointed by the Secretary of Health and Mental Hygiene;

(4) the President of the Baltimore City Council, or the President's designee;

(5) the Prince George's County Health Officer, or the Health Officer's designee; and

(6) the following members, appointed by the Governor:

(i) one representative of Food Allergy Research and Education;

- 1                   (ii) one consumer with a food allergy;
- 2                   (iii) one parent of a child with a food allergy;
- 3                   (iv) one representative of the Restaurant Association of  
4 Maryland;
- 5                   (v) one representative of the National Restaurant Association;
- 6                   (vi) one representative of the Maryland Retailers Association;
- 7                   (vii) one representative of the Maryland Hotel and Lodging  
8 Association;
- 9                   (viii) one representative of the Inter-Jurisdictional Food Service  
10 Manager Program Committee;
- 11                   (ix) one representative of the Maryland Association of County  
12 Health Officers who is not from a jurisdiction with a certified food service manager  
13 program; and
- 14                   (x) one representative of the Maryland Conference of Local  
15 Environmental Health Directors.
- 16           (c) The President of the Senate and Speaker of the House jointly shall  
17 designate the chair of the Task Force.
- 18           (d) The Task Force may form subcommittees from among its members.
- 19           (e) The Department of Health and Mental Hygiene shall provide staff for the  
20 Task Force.
- 21           (f) A member of the Task Force:
- 22                   (1) may not receive compensation as a member of the Task Force; but
- 23                   (2) is entitled to reimbursement for expenses under the Standard  
24 State Travel Regulations, as provided in the State budget.
- 25           (g) The Task Force shall:
- 26                   (1) study and make recommendations regarding:
- 27                           (i) food allergy awareness and food allergy training for food  
28 service facilities in the State;

1                   (ii) food safety training for food service facilities in the State;  
2 and

3                   (iii) the use of systems for grading and classifying health  
4 inspection results for food service facilities in the State;

5           (2) review food safety efforts at the State and local level, including:

6                   (i) the frequency of food service facility inspections, the most  
7 common violations, and the reasons for closures;

8                   (ii) the number of food-borne illness cases that have been linked  
9 to food service facilities; and

10                  (iii) the impact of local food service manager certification  
11 programs;

12           (3) study:

13                   (i) the most common food allergies and issues related to food  
14 preparation and cross-contamination in food service facilities;

15                   (ii) existing and planned food allergy training material,  
16 programs, and certifications;

17                   (iii) food allergy awareness and training mandates for food  
18 service facilities in other states;

19                   (iv) legal issues related to food allergens, including potential  
20 civil liability, compliance with the Americans with Disabilities Act, and negligence  
21 issues;

22                   (v) the use of grading and classifying health inspection results  
23 for food service facilities by other jurisdictions;

24                   (vi) the frequency of food-borne illness cases linked to food  
25 service facilities in jurisdictions that grade and classify health inspection results  
26 compared to similar jurisdictions that do not use grading and classification systems;

27                   (vii) the costs of implementing and administering grading and  
28 classifying systems, how the costs of these systems are paid for, and any cost-benefit  
29 analyses of these systems that have been completed;

30                   (viii) the alternatives to grading and classifying health inspection  
31 results, including the State's existing pass-fail inspection system, online posting of  
32 health inspection results, a system that informs consumers regarding the frequency of

1 health inspections at food service facilities, and any other options the Task Force  
2 considers appropriate; and

3 (ix) any other issues the Task Force considers appropriate; and

4 (4) study and evaluate:

5 (i) mandated food service manager certification and mandated  
6 food handler training options; and

7 (ii) online food safety training programs for certification and  
8 recertification.

9 (h) On or before January 1, 2014, the Task Force shall report its findings and  
10 recommendations related to food allergy awareness and training, food safety training,  
11 and the use of grading and classifying health inspections results for food service  
12 facilities to the Governor and, in accordance with § 2-1246 of the State Government  
13 Article, the Senate Finance Committee and the House Health and Government  
14 Operations Committee.

15 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
16 take effect October 1, 2013.

17 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
18 Section 3 of this Act, this Act shall take effect June 1, 2013. Section 2 of this Act shall  
19 remain effective for a period of 1 year and 1 month and, at the end of June 30, 2014,  
20 with no further action required by the General Assembly, Section 2 of this Act shall be  
21 abrogated and of no further force and effect.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.