

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1150 (Prince George's County Delegation)
Health and Government Operations

Prince George's County - Food Service Facilities - Letter Grading
PG 313-13

This bill requires the Prince George's County Health Department (PGCHD) to establish and implement a system for grading and classifying inspection results for a food service facility (including a full-service restaurant or a mobile food service facility, as specified by the bill), using letters to identify and represent a facility's degree of compliance with State and local laws requiring a facility to operate in a sanitary manner to protect public health. PGCHD must conduct a second inspection of a food service facility that receives a grade lower than grade "A" upon initial inspection. A food service facility may request a hearing before the Prince George's County Health Officer to contest a letter grade lower than grade "A" received after a second inspection.

Fiscal Summary

State Effect: None. The bill only affects local government operations.

Local Effect: PGCHD expenditures increase significantly, as discussed below, to hire additional staff to conduct follow-up inspections and conduct any requested hearings. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Because food service facilities are already inspected to ensure compliance with sanitation laws, any overall impact to small food service facilities in Prince George's County is expected to be minimal. However, any such facilities that are required to post a relatively low letter grade under the bill may experience a meaningful loss of business.

Analysis

Bill Summary: Unless PGCHD orders the closing of a food service facility, the department must provide each inspected facility with a letter grade card indicating the facility's inspection grade (the letter "A" representing the highest degree of compliance). A food service facility must conspicuously post a letter grade card so that it is visible to the public and to patrons before the patrons enter the facility. A letter grade card may not be defaced, marred, camouflaged, or hidden from view.

For any food service facility receiving an "A" grade, PGCHD must provide a letter grade card at the conclusion of the inspection during which the letter grade is determined. The facility is required to immediately post the letter grade card.

For a food service facility receiving a lower letter grade, PGCHD must (1) advise the facility of its inspection grade and the findings on which the grade was based; (2) conduct a subsequent inspection of the food service facility within seven days after the first inspection; and (3) at the conclusion of the second inspection, provide the facility with a letter grade card indicating the inspection grade that the facility received on the inspection. The facility is then required, unless it requests a hearing, to immediately post the letter grade card.

If a facility requests a hearing (to be conducted before the Prince George's County Health Officer) to contest the letter grade, the facility may defer posting the letter grade card until 72 hours after the hearing – in which case the facility is required to remove any letter grade card that is currently posted and to conspicuously post a sign (provided by the department) so that it is visible to the public and to patrons before the patrons enter the food service facility. The sign must inform the public that (1) the facility's inspection results are under review and (2) the results of the inspection may be obtained from PGCHD.

Within 72 hours after the hearing, PGCHD must re-grade the inspection results, taking into account any subsequent inspection of the facility that results in a finding that the food service facility complies with State and local health laws. If a re-grading changes the inspection grade, PGCHD is required to issue the facility a new letter grade card (which the facility must immediately post). If, however, re-grading does not change the inspection grade, the facility is required to immediately post the letter grade card issued after the second inspection.

Current Law: A food establishment (including a food service facility or a food processing plant) must be licensed by the Department of Health and Mental Hygiene (DHMH) and is subject to inspections. 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.

Local health departments license and inspect food service facilities.

Background: A number of states (including Mississippi, North Carolina, and Tennessee) and local jurisdictions (including New York City and Los Angeles County) require the results of restaurant inspections to be graded and publicly posted.

A proposal to require inspection grades for restaurants in Baltimore City is currently pending before the city council.

Local Expenditures: Prince George's County estimates that PGCHD expenditures increase by approximately \$600,000 on an annualized basis for PGCHD to hire nine additional full-time sanitarians to implement the bill. In addition, fiscal 2014 expenditures include significant one-time start-up costs (including a vehicle and laptop computer for each sanitarian) totaling approximately \$250,000.

The Department of Legislative Services (DLS) concurs with Prince George's County that PGCHD expenditures increase significantly under the bill for the department to hire additional permanent staff to establish the grading system, develop the required grading card and signage, and conduct any necessary follow-up inspections and hearings. However, the number of facilities that are likely to require re-inspections and/or request hearings under the bill is unknown. Similarly, the number of follow-up inspections that are already conducted by current PGCHD staff is unknown. Thus, DLS advises that PGCHD expenditures, while likely significant, cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's County, Department of Health and Mental Hygiene, Department of Legislative Services

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ncs/ljm

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