

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 1255  
Economic Matters

(Delegate Pena-Melnyk, *et al.*)

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Food Service Facilities - Meals for Children

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This bill prohibits a food service facility from including any beverage other than bottled water or low-fat milk as the included beverage in a fixed-price children's menu or meal. These facilities may offer other lawful, nonalcoholic beverages to minors for a charge.

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Fiscal Summary

**State Effect:** Because Maryland public schools already serve low-fat milk, the bill does not impact the finances of the State school meal program. The Department of Health and Mental Hygiene (DHMH) can handle the bill's requirements with existing budgeted resources. The application of existing penalties is not anticipated to materially affect State finances.

**Local Effect:** Local health departments can enforce the bill with existing budgeted resources.

**Small Business Effect:** Potential meaningful.

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Analysis

**Current Law:** Generally, a "food service facility" is a place where food or drink is prepared for sale or service on the premises or elsewhere, or any operation where food is served or provided to the public, regardless of whether there is a charge. Food service facilities are a type of "food establishment" regulated under the Health-General Article. A person must have a license from DHMH or a suitable license from a county health department in order to operate a food establishment. A representative of DHMH may enter any food establishment at a reasonable time to conduct inspections.

A food establishment licensee that violates any law or regulation relating to food establishments is guilty of a misdemeanor and on conviction is subject to a fine 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, a violator is subject to a civil penalty of up to \$5,000, to be collected by the District Court for any county, and may be enjoined from continuing the violation. Each day is a separate violation.

**Background:** According to the U.S. Centers for Disease Control and Prevention (CDC), childhood obesity has more than doubled in children in the past 30 years, and in 2012, more than one-third of children and adolescents were overweight or obese. According to the American Academy of Pediatrics, a recent study found that four- and five-year-olds who drank one or more sugar-sweetened beverage per day were more likely to be obese. The study recommended that caregivers should be discouraged from giving children sugar-sweetened beverages and should instead offer calorie-free beverages and milk. There is broad public debate on whether children should be given low-calorie or whole milk.

**State Fiscal Effect:** Because Maryland public schools already serve low-fat milk as the beverage option for the State school meal program, it is assumed that the bill has no impact on the program's finances. The federal Healthy, Hunger-Free Kids Act of 2010 requires that a school meal include fluid milk to qualify for federal reimbursement grants. The Maryland State Department of Education advises that, if the bill requires schools to also offer water, instead of just low-fat milk, approximately \$187.4 million in federal funding is jeopardized.

**Small Business Effect:** This bill may impact small businesses that offer children's meal options on their menus that include beverages in the price of the meal. To the extent that low-fat milk or water options are more expensive than other beverage options currently offered (such as juice or soda), small businesses may incur additional costs. However, facilities could still offer other lawful, nonalcoholic beverages for a charge. Moreover, to the extent they can simply substitute tap water for a current option, they may realize savings.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 750 (Senator Pugh, *et al.*) - Finance.

**Information Source(s):** American Academy of Pediatrics, U.S. Centers for Disease Control and Prevention, Maryland Association of County Health Officers, Maryland State Department of Education, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2014  
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