

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 1090 (Delegate Glenn, *et al.*)
Economic Matters

Public Health - Restaurants - Meals for Children

This bill prohibits a restaurant from including any beverage other than bottled water, low-fat milk, or 100% fruit juice as the included beverage in a fixed-price children's menu option or meal. However, a restaurant may offer other lawful, nonalcoholic beverages to minors for a charge.

Fiscal Summary

State Effect: 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.

Analysis

Current Law: Although not defined in the Maryland Annotated Code, the Code of Maryland Regulations (COMAR), the commonly understood definition of a "restaurant" is encompassed within the definition of "food service facility."

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 local 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 2013 study found that four- and five-year-olds who drank one or more sugar-sweetened beverage per day, including soda, sports drinks, or fruit drinks that are not 100% juice 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.

Small Business Effect: The bill may impact restaurants 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, water, or 100% fruit juice options are more expensive than other beverage options currently offered (such as juice that is not 100% fruit juice or soda), small businesses may incur additional costs. However, restaurants 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.

Additional Information

Prior Introductions: Similar legislation was considered in the 2014 legislative session. HB 1255 received an unfavorable report from the House Economic Matters Committee. Its cross file, SB 750 received a hearing in the Senate Finance Committee but was subsequently withdrawn.

Cross File: SB 742 (Senator Nathan-Pulliam, *et al.*) - Finance.

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

Fiscal Note History: First Reader - February 27, 2015
md/ljm

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