

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 751 (Delegate Hixson, *et al.*)
Health and Government Operations

Health - Food Allergy Awareness

This bill requires that, beginning March 1, 2016, restaurants request that patrons with known food allergies notify the employee taking the customer's food order of the allergies prior to ordering food. The bill also requires DHMH to establish online lists of (1) approved food allergen awareness training courses and accredited tests and (2) resources about food safety and food handling related to food allergies.

Fiscal Summary

State Effect: DHMH can handle the bill's requirements with existing budgeted resources. The bill does not affect general fund fine revenues.

Local Effect: Local health departments can assess, in the course of their regular inspections, whether a food establishment is in compliance with the bill. Thus, enforcement can be handled within existing budgeted resources.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: Restaurants may request that a customer inform them of any known food allergies by posting a query on the restaurant's menu, menu board or a conspicuously displayed sign in the restaurant or through a verbal request made by the employee taking the customer's food order.

Restaurants that violate the bill's notice requirements are not subject to existing civil and criminal penalties for food establishments.

Current Law: Chapters 251 and 252 of 2013 required food establishments to prominently display a specified poster relating to food allergies that includes information about the risk of an allergic reaction beginning March 1, 2014. DHMH was required to create and display a poster on its website by January 1, 2014. The poster is available [here](#). A food establishment (including a food service facility or a food processing plant) must be licensed by DHMH and is subject to inspections.

Food establishment licensees that violate any law 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. Each day is a separate violation.

Background: Chapters 251 and 252 of 2013 also required DHMH to establish the Task Force on Food Allergy Awareness, Food Safety, and Food Service Facility Letter Grading to examine issues related to food service in Maryland and generate a report with recommendations. The task force released its report in January 2014. The bill adopts a couple of the task force's recommendations, specifically that (1) restaurants post or directly ask restaurant patrons to inform employees of food allergies before ordering and (2) DHMH establish online lists of qualifying courses and resources for restaurants regarding food allergies. Although not addressed in the bill, the task force also recommended that DHMH initiate tracking of food allergy complaints as new resources are made available to the department to do so and that food service facilities have a staff member available who has taken a food allergen awareness course to discuss food options with customers.

The U.S. Centers for Disease Control and Prevention reports that the prevalence of food allergies is increasing in America, but the causes are uncertain. There is currently no preventative treatment for food allergies, so the only way to avoid a reaction is strict avoidance of allergens. Allergic reactions can cause broad-range symptoms with varying degrees of severity from itching to potentially fatal reactions such as anaphylaxis. According to the task force report, the eight most common food allergens are cow's milk, eggs, peanuts, tree nuts, fish, shellfish, soy, and wheat. The task force found that, while food service industry staff thinks food allergies are a serious concern, many do not understand how to accurately respond to inquiries from food-allergic customers, how to help them select safe menu items, or how to properly separate allergens from a meal.

Additional Information

Prior Introductions: HB 1197 of 2014 passed the House with amendments and was referred to the Senate Rules Committee, where no further action was taken. Its cross file, SB 409, passed both the Senate and the House with amendments; however, the differences were not reconciled.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Maryland Association of County Health Officers; Task Force on Food Allergy Awareness, Food Safety, and Food Service Facility Letter Grading; U.S. Centers for Disease Control and Prevention; Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2015
md/ljm

Analysis by: Kathleen P. Kennedy

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