

# SENATE BILL 291

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By: **Senators Bates, Guzzone, Norman, Ready, and Waugh**

Introduced and read first time: January 22, 2016

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Mobile Food Service Facilities – Licensing and Inspection by**  
3 **Counties**

4 FOR the purpose of prohibiting, under certain circumstances, a county from requiring a  
5 mobile food service facility to obtain a license from the county in order to operate in  
6 the county; authorizing a county to inspect a mobile food service facility that is  
7 operating in the county; requiring, under certain circumstances, a county to forward  
8 the result of a certain inspection to the county that licenses a certain mobile food  
9 service facility; providing for the application of this Act; defining certain terms; and  
10 generally relating to the licensing and inspection of mobile food service facilities by  
11 counties.

12 BY repealing and reenacting, with amendments,  
13 Article – Health – General  
14 Section 21–304  
15 Annotated Code of Maryland  
16 (2015 Replacement Volume)

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

19 **Article – Health – General**

20 21–304.

21 (a) (1) The Department shall adopt rules and regulations necessary to carry  
22 out the provisions of this subtitle.

23 (2) For excluded organizations, the Department:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) Shall adopt separate regulations that establish minimum  
2 standards that:

- 3 1. Ensure food integrity and safety;
- 4 2. Preserve public health; and
- 5 3. Control foodborne illnesses; and

6 (ii) May adopt separate regulations that establish a licensing  
7 system, with appropriate standards, that excluded organizations may voluntarily choose to  
8 submit to as a nonrescindable alternative to regulation under item (i) of this paragraph.

9 (b) Except as provided in subsection (e) of this section, a political subdivision may  
10 not adopt a law, ordinance, rule, or regulation that establishes a standard that is less  
11 stringent than rules and regulations adopted under this subtitle.

12 (c) Except as otherwise provided in this section, this subtitle does not limit the  
13 power of a home rule or charter county or Baltimore City to adopt and enforce laws,  
14 ordinances, and regulations that are consistent with the purposes of this subtitle, including  
15 the power to adopt local licensing and enforcement procedures.

16 (d) (1) (i) In this subsection the following words have the meanings  
17 indicated.

18 (ii) "Farmer's market" means a public market in the State where  
19 producers of raw agricultural products sell the products directly to the public.

20 (iii) "Raw agricultural product" includes:

- 21 1. Whole, unprocessed grains, flowers, herbs, nuts, fruits,  
22 and vegetables supplied directly from the farm on which they were produced; and
- 23 2. Any agricultural products the Department identifies in  
24 regulation.

25 (2) A local jurisdiction may not require a license for the sale of raw  
26 agricultural products at a farmer's market or at a public festival or event.

27 (e) (1) The governing body of Frederick County may adopt an ordinance to  
28 allow a restaurant with an outdoor dining area to allow a patron's dog to accompany the  
29 patron in the outdoor dining area.

30 (2) An ordinance adopted under paragraph (1) of this subsection shall:

31 (i) Prohibit a dog from being allowed to travel through an indoor  
32 space of a restaurant to enter or exit an outdoor dining area; and

1 (ii) Contain a provision to ensure that the ordinance does not affect  
2 the right of an individual to use a service animal, as defined in § 7-701 of the Human  
3 Services Article.

4 (F) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE  
5 MEANINGS INDICATED.

6 (II) "BASE OF OPERATIONS" MEANS A LOCATION USED BY THE  
7 OWNER OR OPERATOR OF A MOBILE FOOD SERVICE FACILITY THAT PROVIDES:

8 1. A SOURCE OF POTABLE WATER, POTABLE WATER  
9 HOSES, AND CLEAN CONNECTIONS;

10 2. A METHOD FOR THE DISPOSAL OF SEWAGE;

11 3. CLEAN, ADEQUATE, AND COVERED TRASH  
12 RECEPTACLES;

13 4. IF NECESSARY, REFRIGERATED AND DRY FOOD  
14 STORAGE AREAS;

15 5. A STORAGE AREA FOR SINGLE SERVE FOOD ITEMS;  
16 AND

17 6. IF NECESSARY, A UTENSIL WASHING FACILITY.

18 (III) "MOBILE FOOD SERVICE FACILITY" MEANS A FOOD SERVICE  
19 FACILITY THAT IS A MECHANICALLY, ELECTRICALLY, MANUALLY, OR OTHERWISE  
20 PROPELLED VEHICLE OPERATING ON LAND THAT CHANGES ITS LOCATION AS PART  
21 OF ITS ROUTINE SALES OPERATION.

22 (2) THIS SUBSECTION DOES NOT APPLY TO A MOBILE FOOD SERVICE  
23 FACILITY THAT SOLELY OPERATES AT TEMPORARY FIXED LOCATIONS IN  
24 CONJUNCTION WITH FAIRS, CARNIVALS, OR SIMILAR EVENTS.

25 (3) A COUNTY MAY NOT REQUIRE A MOBILE FOOD SERVICE FACILITY  
26 TO OBTAIN A LICENSE FROM THE COUNTY IN ORDER TO OPERATE IN THE COUNTY IF  
27 THE MOBILE FOOD SERVICE FACILITY IS LICENSED BY THE COUNTY IN WHICH:

28 (I) THE BUSINESS ADDRESS FOR THE MOBILE FOOD SERVICE  
29 FACILITY IS LOCATED; OR

1                                   **(II) THE BASE OF OPERATIONS FOR THE MOBILE FOOD SERVICE**  
2 **FACILITY IS LOCATED.**

3                                   **(4) (I) A COUNTY HEALTH DEPARTMENT MAY INSPECT A MOBILE**  
4 **FOOD SERVICE FACILITY THAT IS OPERATING IN THE COUNTY REGARDLESS OF**  
5 **WHETHER THE MOBILE FOOD SERVICE FACILITY IS LICENSED BY THE COUNTY.**

6                                   **(II) IF A COUNTY HEALTH DEPARTMENT INSPECTS A MOBILE**  
7 **FOOD SERVICE FACILITY THAT IS NOT LICENSED BY THE COUNTY, THE COUNTY**  
8 **SHALL FORWARD THE RESULT OF THE INSPECTION TO THE COUNTY THAT LICENSES**  
9 **THE MOBILE FOOD SERVICE FACILITY.**

10                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11                   October 1, 2016.