

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1087
 Economic Matters

(Delegate Wilson)

Finance

Business Regulation - Micro Markets - Licensure

This bill requires a person to have a micro market license to operate one or more micro markets in the State and allows a micro market to operate without a person in charge present if the micro market meets specified requirements. Micro markets are explicitly included in the definition of “food service facility” for purposes of licensing and enforcement of such establishments by the Maryland Department of Health (MDH).

Fiscal Summary

State Effect: General fund expenditures increase by \$19,200 in FY 2019 for a one-time programming expense. General fund revenues increase minimally beginning in FY 2019. The bill does not otherwise materially affect State operations or finances, as discussed below.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	-	-	-	-	-
GF Expenditure	\$19,200	\$0	\$0	\$0	\$0
Net Effect	(\$19,200)	-	-	-	-

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government revenues increase minimally beginning in FY 2019. Local expenditures are not materially affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Micro market” means an unstaffed, self-checkout, retail food service facility that (1) includes one or more micro market displays, as defined in the bill; (2) has an automated payment kiosk or other device designed to accept electronic payments that is operated by the consumer; (3) is located indoors and within a separate business; and (4) is generally accessible only to individuals within the building in which the food service facility is located.

A person must have a micro market license to operate one or more micro markets in the State. An applicant must provide the clerk of the circuit court a \$50 fee and a form required by the Comptroller that includes the address of each micro market to be operated by the applicant.

Notwithstanding other provisions of law, the owner or operator of a micro market may not be required to have a person in charge present during the market’s hours of operation if the micro market meets the following requirements:

- food sold at a micro market must (1) be commercially prepackaged food or ready-to-eat food; (2) be prepackaged in tamper-evident packaging; and (3) contain specified nutritional and related information on the packaging label;
- refrigerated or frozen food sold at a micro market must be stored and displayed in a refrigerator, refrigerated cooler, or freezer that meets specified requirements, including self-closing doors and an automated self-locking feature; and
- the owner or operator of a micro market must post a sign that is clearly visible to the consumer near the micro market entryway or while using the electronic payment device that includes specified contact information for the owner or operator.

The owner or operator of a micro market may secure the product and premises of a micro market using 24-7 surveillance that records at sufficient resolution to identify consumers using the micro market. The video recording must be maintained by the owner for 14 days and must be made available for inspection upon the request of the Comptroller, another regulatory agency, or law enforcement agency within 24 hours.

Current Law/Background: There is no separate license requirement for micro markets as defined in the bill. A person who sells or offers to sell most goods through a vending machine must be licensed by the local clerks of the court.

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 MDH or a suitable license from a local health department in order to operate a food establishment, including a vending machine. A representative of MDH may enter any food establishment at a reasonable time to conduct inspections. In general, local health departments conduct inspections of food establishments, including vending machines with perishable food.

State/Local Effect: General fund expenditures increase by \$19,200 in fiscal 2019 for a one-time programming expense for the Judiciary (Administrative Office of the Courts) to incorporate the new license.

While the bill does not specify the terms of the micro market license, other licenses issued by the clerks of the court are valid for one year and revenues are generally split between the local government (92%) and the State general fund (8%). Therefore, assuming annual license renewals, State and local revenues increase beginning in fiscal 2019 from micro market licenses issued by the local clerks of the court. The amount cannot be reliably estimated at this time but is anticipated to be minimal.

Explicitly defining micro markets as food establishments does not materially affect State or local finances or operations, as these establishments are already subject to licensing and regulation as food service facilities under current law. Any additional enforcement measures due to the bill can likely be completed through those existing processes.

The Comptroller can likely handle the bill’s requirements with existing budgeted resources. To the extent that this is not the case, general fund expenditures increase for staff and related expenses.

This estimate likewise assumes that other regulatory and law enforcement agencies are not materially affected by the bill’s authorization to request video surveillance footage.

Small Business Effect: Micro market operators may be small businesses and may benefit from the ability to operate without having a person in charge present if their micro market(s) would otherwise be required to have someone present. The Maryland Association of County Health Officers advises that food establishments, except for vending machines, must have a person in charge during the hours of operation. Conversely, micro market operators must apply for a micro market license and pay the applicable fee.

Additional Information

Prior Introductions: None.

Cross File: SB 758 (Senator Reilly) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Health; Maryland Association of County Health Officers; Department of Labor, Licensing, and Regulation; Comptroller's Office; Department of Legislative Services

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