

HOUSE BILL 1193

J1, M1
HB 1077/21 – HGO

2lr2326

By: **Delegates Saab, Chisholm, and Kipke**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Anne Arundel County – Licensing of Food Establishments – Waiver for Open–Air**
3 **Food Markets**

4 FOR the purpose of authorizing the Maryland Department of Health to waive certain
5 requirements for a food establishment license for an open–air food market in Anne
6 Arundel County; and generally relating to the waiver of food establishment licensing
7 requirements for open–air food markets in Anne Arundel County.

8 BY repealing and reenacting, with amendments,
9 Article – Health – General
10 Section 21–305
11 Annotated Code of Maryland
12 (2019 Replacement Volume and 2021 Supplement)

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

15 **Article – Health – General**

16 21–305.

17 (a) Except as otherwise provided in this subtitle, a person may not operate a food
18 establishment unless the person is licensed by the Department.

19 (b) (1) A separate license is required for each food establishment that a person
20 owns or operates.

21 (2) Except in Baltimore City, the provisions of this subsection may require
22 a license for each location where vending machines are operated, but may not require a
23 separate license for each individual vending machine.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) Except in Baltimore City, vending machine locations used exclusively
2 for prepackaged and commercially sealed foods that are not potentially hazardous, as
3 defined by regulation, are not required to be licensed.

4 (4) In Baltimore City, a license may be required for each individual vending
5 machine.

6 (5) (i) An excluded organization may operate a food establishment
7 without a license unless the excluded organization has been issued a license under §
8 21-304(a)(2)(ii) of this subtitle.

9 (ii) If the Department adopts regulations governing excluded
10 organizations serving potentially hazardous foods prepared in a private kitchen, an
11 excluded organization shall meet any requirements in the regulations.

12 (6) A license is not required for a person who:

13 (i) Produces shell eggs;

14 (ii) Sells the shell eggs directly to the public; and

15 (iii) Is registered with or inspected by the Secretary of Agriculture
16 under § 4-310 or § 4-311.1 of the Agriculture Article.

17 (7) Except as provided in § 21-304 of this subtitle, nothing in this subtitle
18 shall preempt the right of a county to require a permit under the authority provided by a
19 local law, ordinance, or regulation if this subtitle does not require the food establishment
20 to obtain a State license.

21 (c) A license is not transferable:

22 (1) Except as provided by regulation for transfer of the license on the death
23 of the licensee from person to person; or

24 (2) From location to location, except for a producer mobile farmer's market
25 license under § 21-309.1 of this subtitle.

26 (d) (1) For the purposes of this section a license issued by a county health
27 department under the authority provided by local law, ordinance, or regulation in
28 accordance with § 21-304(b) and (c) of this subtitle shall constitute the license required
29 under this subtitle, unless the Department, after a hearing, determines that the licensee is
30 not in compliance with this subtitle and regulations adopted under this subtitle.

31 (2) After a determination of noncompliance under paragraph (1) of this
32 subsection, the Department shall act to ensure that the food establishment and its operator
33 comply with this subtitle and the rules and regulations adopted under this subtitle.

1 (3) Nothing in this subtitle shall allow the issuance of 2 separate licenses
2 issued solely for the regulation of a food establishment under this subtitle.

3 (E) IN ANNE ARUNDEL COUNTY, THE DEPARTMENT MAY WAIVE FROM THE
4 LICENSURE REQUIREMENTS OF THIS SUBTITLE AND ANY REGULATIONS ADOPTED
5 UNDER THIS SUBTITLE A FOOD ESTABLISHMENT THAT OPERATES AS AN OPEN-AIR
6 FOOD MARKET, INCLUDING ANY REQUIREMENTS RELATED TO:

7 (1) FLOORING; OR

8 (2) SINKS.

9 [(e)] (F) In Charles County, an issuance, renewal, or transfer of an off-sale
10 alcoholic beverages license shall not require Department approval.

11 [(f)] (G) In Carroll County, a bona fide religious organization that meets the
12 requirements of an excluded organization under § 21-301 of this subtitle or a county-owned
13 and county-operated park or facility that is hosting a public festival may offer for sale or
14 sell the following types of homemade-style food if the food is produced at the organization,
15 park, or facility and meets the appropriate health and safety standards adopted by the
16 Department:

17 (1) Fruit jellies, jams, and preserves made from apples, apricots,
18 blackberries, blueberries, boysenberries, cherries, cranberries, grapes, nectarines, oranges,
19 peaches, plums, quince, raspberries, red currants, strawberries, or tangerines;

20 (2) Fruit butter made from apples, apricots, grapes, peaches, plums,
21 prunes, or quince;

22 (3) Fruit pies made from apples, apricots, blackberries, blueberries,
23 boysenberries, cherries, cranberries, grapes, nectarines, oranges, peaches, plums, quince,
24 raspberries, red currants, strawberries, or tangerines; and

25 (4) Honey.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2022.