

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1193 (Delegate Saab, *et al.*)  
Health and Government Operations

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Anne Arundel County - Licensing of Food Establishments - Waiver for Open-Air  
Food Markets

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This bill authorizes the Maryland Department of Health (MDH) to waive, in Anne Arundel County, licensure and related regulatory standards for a food establishment that operates as an open-air food market. This includes waiving requirements related to flooring and sinks.

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Fiscal Summary

**State Effect:** Since MDH delegates licensing authority for food establishments to local health departments (LHDs), the bill is not anticipated to have a material impact on State expenditures or revenues. MDH can review and approve exemption requests with existing budgeted staff and resources.

**Local Effect:** The Anne Arundel County Department of Health can likely implement the bill with existing budgeted staff and resources. Potential minimal decrease in revenues in Anne Arundel County from food establishment licensing fees.

**Small Business Effect:** Minimal overall, but potential meaningful for any food establishment that is able to operate without obtaining a license or needing to meet waived regulatory standards in Anne Arundel County.

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## Analysis

### Current Law:

#### *Food Establishments Generally*

Generally, a person may not operate a food establishment unless licensed (by MDH or an LHD) or exempt from licensure requirements. In practice, the licensing, inspection, and enforcement of statutory provisions related to food service facilities are delegated to LHDs. Each food establishment must be separately licensed. There are several exemptions, including food establishments considered to be an excluded organization, as discussed below. A “food establishment” is a food service facility or a food processing plant. 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. A “food processing plant” is any place used for, or in connection with, the commercial manufacturing, preparing, processing, packaging, canning, freezing, storing, distributing, labeling, or holding of food or drink for human consumption.

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.

#### *Excluded Organizations*

Maryland regulations define an “excluded organization” as a volunteer fire company or *bona fide* nonprofit fraternal, civic, war veterans’, religious, or charitable organization or corporation that does not serve food to the public more often than 4 days per week, except that once a year an organization may serve food to the public for up to 30 consecutive days.

Regulations require an excluded organization to operate either (1) with a (rescindable) food service facility license in full compliance with applicable regulations or (2) without a license and in compliance with specified minimum requirements to ensure food safety at a food service facility that is operated by an excluded organization without a license. Among other things, if an excluded organization is serving food to the public, the food must be wholesome and free from contamination, not adulterated, safe for human consumption, obtained from an approved source, and packaged and labeled in accordance with regulations. Further, food must be protected during storage, service, and transport and be stored and held at specified temperatures.

## *Temporary Events*

A “temporary food service facility” is a food service facility that operates for up to 30 consecutive days at a fixed location in conjunction with a fair, carnival, public exhibition, construction project, recreational facility, fundraising event, or similar event for typically no longer than two weeks. A license to operate a temporary food service facility expires at the conclusion of the underlying event, or after 30 consecutive days of operations, whichever is earlier, or as provided in local law or regulation. Temporary food service facilities are exempt from certain regulations because those regulations are applicable primarily to food service facilities that have permanent physical infrastructure.

**Small Business Effect:** The bill has a beneficial operational impact and may expand business opportunities for open-air food markets in Anne Arundel County. The bill could also result in minimal savings for businesses that would otherwise have needed to obtain a license in Anne Arundel County. Some of these businesses are likely small businesses.

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### **Additional Information**

**Prior Introductions:** HB 1077 of 2021, a similar bill, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

**Designated Cross File:** None.

**Information Source(s):** Maryland Association of County Health Officers; Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2022  
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