

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 778
(Senator Mautz)

Education, Energy, and the Environment

**Wicomico County - Seasonal Restaurants - Potable Running Water and
Graywater**

This bill authorizes a seasonal restaurant in Wicomico County to operate without providing potable running water to customers if (1) the restaurant is located on a former dredge site or in a remote area with minimal public access; (2) the restaurant uses a “graywater system”; and (3) a “community sewerage system” is not available to serve the restaurant. The owner or operator of a restaurant operating pursuant to the bill’s authority must safely dispose of the “graywater” in accordance with any guidelines or regulations adopted by the Maryland Department of the Environment (MDE), the Maryland Department of Health (MDH), or a federal agency. Further, MDE must notify the Department of Legislative Services (DLS) within five days after an adequate water supply and community sewerage system is available to a seasonal restaurant operating pursuant to the bill. **The bill takes effect June 1, 2023, and terminates two years after DLS receives the notification from MDE.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances. MDE can update its regulations and notify DLS with existing budgeted resources. MDH notes that a restaurant operating under the bill is still subject to statutory and regulatory requirements for food service facilities.

Local Effect: The bill is not anticipated to materially affect Wicomico County operations or finances.

Small Business Effect: Minimal. It is assumed that the bill only applies to a limited number of small businesses in Wicomico County.

Analysis

Bill Summary: “Community sewerage system” means a publicly or privately owned sewerage system that serves at least two lots. “Graywater” means untreated water generated by the use of and collected from a “handwashing sink.” “Graywater” does not include water from a shower, toilet, bathtub, lavatory or kitchen sink, or dishwashing machine. “Graywater system” means (1) a holding tank connected to a handwashing sink and a three-compartment sanitation sink used to collect and store graywater and (2) a holding tank used to collect and store potable water. A “handwashing sink” means a sink used for handwashing only.

Current Law:

Regulation and Licensing of Restaurants

A restaurant is a type of food service facility, which generally speaking, 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 service facility is a type of food establishment regulated under the Health-General Article. A person may not operate a food establishment unless licensed (by MDH or a local health department) or exempt from licensure requirements. Each food establishment must be separately licensed.

The Code of Maryland Regulations 10.15.03.13 establish the standards for the control of sanitary facilities for food service facilities. Among other things, potable water must be obtained from a water supply system that complies with standards under the Environment Article. “Three-compartment sink” is referenced under MDH food service facility regulations relating to cleaning and sanitizing equipment and utensils.

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.

Holding Tanks and Graywater

Pursuant to Chapter 705 of 2018, the use of graywater is authorized for residential purposes, under specified conditions, and if the use is permitted under regulations established by MDE. However, as of the writing of this fiscal and policy note, MDE has not yet promulgated regulations authorizing the use of graywater. Pursuant to Chapter 705,

“graywater” is defined as used, untreated water generated by the use of and collected from a shower, a bathtub, or a lavatory sink; the term does not include water from a toilet, a kitchen sink, or a dishwashing machine.

The use of graywater is currently regulated as sewage. A person may only dispose of sewage in accordance with an approved septic system permit or other method of disposal approved by the Secretary of the Environment (or designee). State law also prohibits a discharge of any wastewater, regardless of volume, into the waters of the State, without a permit from MDE.

“Holding tank” is defined in regulation as a watertight receptacle that is used, or intended to be used, for the collection of sewage. Regulations restrict the use of a holding tank, and generally a holding tank is only allowed to resolve an existing on-site sewage disposal failure if a community sewerage facility is not available and on-site repair protective of public health is not possible. Holding tanks are not authorized to serve new construction for the purpose of adding capacity to an existing disposal system in order to accommodate a change in property use. Holding tanks must hold a certain amount of effluent and be watertight.

MDE statute and regulations specify water supply requirements for commercial and residential properties, and any establishment must have a potable water supply (in addition to proper sewage disposal). A building permit may not be issued unless the property has an acceptable means of sewage disposal and water supply. Absent a community water system, a satisfactory water supply well or a surface water supply that is permitted by MDE and meets regulatory requirements are the only suitable water supply sources.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1003 (Wicomico County Delegation) - Environment and Transportation.

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

Fiscal Note History: First Reader - February 20, 2023
km/lgc

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