

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 544
Finance

(Senators Bailey and M. Jackson)

Economic Matters

Food Establishments - Portable Chemical Toilets

This bill allows specified food establishments – a business that conducts agritourism, Class 4 limited wineries, and Class 8 farm breweries – to comply with the requirement to have a convenient lavatory by providing a portable chemical toilet that is (1) supplied with soap, water, and a method to dry hands; (2) kept in sanitary condition; (3) properly ventilated; and (4) placed at least 25 feet from a well. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: The Maryland Department of Health (MDH) can update regulations and provide guidance to local health departments (LHD) with existing budgeted resources. Revenues are not affected.

Local Effect: LHDs can cover necessary inspections with existing budgeted resources, as discussed below. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law: “Food establishment” means a food service facility or a food processing plant. “Food service facility” means (1) a place where food or drink is prepared for sale on the premises or elsewhere or (2) any operation where food is served to or provided to the public, with or without charge.

Every food establishment is required to provide:

- a convenient toilet, separated from any room containing or involving food, and kept in a sanitary condition; and
- a convenient lavatory that is (1) supplied with soap, water, and a method to dry hands; (2) kept in a sanitary condition; and (3) properly ventilated.

Under Maryland regulations (COMAR 26.04.02.08), chemical toilets must be (1) made of impervious materials; (2) vented to the outside air above the roof line of the structure housing them; and (3) supplied with an adequate amount of the chemical agent used to reduce and deodorize the tank contents. Chemical toilets also must only be used for special-term events, such as construction projects or music festivals.

Agritourism

“Agritourism” means an activity conducted on a farm that is offered to a member of the general public or to invited guests for the purpose of education, recreation, or active involvement in the farm operation. This includes corn mazes, petting zoos, hayrides, pumpkin patches, and “pick your own” produce establishments, among other businesses.

Wineries

A Class 4 limited winery license may be issued by the Alcohol, Tobacco, and Cannabis Commission (ATCC). The holder of a Class 4 limited winery license may manufacture, sell, and serve fermented and distilled products for on- and off-premises consumption and provide samples of wine and pomace brandy that the license holder produces to a consumer, as specified. The annual license fee may not exceed \$200.

Farm Breweries

A Class 8 farm brewery license may be issued by ATCC and generally authorizes the license holder to brew, bottle, or contract for up to 15,000 barrels of beer each year; however, that beer must be manufactured with an ingredient from a Maryland agricultural product, including hops, grain, and fruit, and produced on the licensed farm. The license holder may generally (1) sell the beer produced for on-premises consumption and (2) sell and deliver the beer to a licensed wholesaler or a person in another state authorized to acquire beer. The annual license fee may not exceed \$200.

State Fiscal Effect: To implement the bill, MDH advises that it must update regulations (COMAR 10.15.03) for food establishments to allow chemical toilets to be used by specified food establishments to satisfy the convenient lavatory requirement. MDH will also provide guidance for LHDs that are licensing and inspecting facilities. This can be completed with existing budgeted staff and resources.

Local Fiscal Effect: The Maryland Association of County Health Officers (MACHO) advises that LHDs would be responsible for responding to complaints about chemical toilets. Additionally, if a business or operation needed to be inspected for licensure, such as a new food service establishment, then the inspection of chemical toilets by a LHD would be paid for as part of the larger licensing fee. Complaint responses and inspections can therefore be handled with existing budgeted resources.

Small Business Effect: The bill may reduce upfront costs for individuals wishing to start wineries, breweries, and agritourism businesses, as they would no longer need to build a lavatory on the premises so long as they can provide a portable chemical toilet that meets the necessary conditions.

Additional Comments: MACHO advises that chemical toilets are currently used for short-term events and are inspected pre-emptively as part of the permit/licensing process for those events, so there may be issues in ensuring that chemical toilets used in the long-term meet State regulations. MACHO also advises that chemical toilets typically do not include hand washing supplies, which are a requirement in the bill.

Additional Information

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

Designated Cross File: HB 559 (Delegate T. Morgan) - Economic Matters.

Information Source(s): Maryland Association of County Health Officers; Alcohol, Tobacco, and Cannabis Commission; Maryland Department of Agriculture; Maryland Department of the Environment; Maryland Department of Health; Department of Legislative Services

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