



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schwader, Acting Secretary

March 11, 2021

The Honorable Delores G. Kelley  
Chair, Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: SB 920 – County Health Officers - Procedures and Oversight - Letter of Information**

Dear Chair Kelley and Committee Members,

The Maryland Department of Health (MDH) is submitting this letter of information for Senate Bill 920 (SB 920) titled: “County Health Officers - Procedures and Oversight.” SB 920 requires each county board of health and the Baltimore City Health Department to establish specific criteria for when, how, and under what circumstances the local health department (LHD) may inspect or take other enforcement actions against a business. This legislation further establishes an oversight board to which a business may appeal a decision by the LHD.

MDH notes that SB 920 has the potential to undermine the ability of LHDs to carry out essential enforcement activities for the protection of health and safety and interfere with consistent health and safety regulation across the State. Such inconsistencies could pose potential health risks in different jurisdictions based on local interpretations of health and safety priorities. MDH and other State agencies (including the Department of the Environment) delegate authority to LHDs for certain programs, including food service facilities, public swimming pools, lead paint inspections, and housing protection services. LHDs are responsible for licensing and inspection, as well as taking enforcement action against noncompliant businesses when necessary. Inspections are based on both statutory and regulatory requirements for each program and include provisions for remedial enforcement actions as well as a business’s right to a hearing in some circumstances. It is paramount that the General Assembly protect the right of entry of LHD staff, established under Health-General §2–104(1)(1):

*The Secretary or an agent or employee of the Secretary may enter, at any reasonable hour, a place of business or public premises if the entry is necessary to carry out a duty under this article or the Health Occupations Article.*

The current system has been integral to the State's COVID-19 response, as MDH and many other State agencies have worked with LHDs to provide guidance to businesses on compliance with executive and MDH orders related to COVID-19 prevention. Such efforts have been focused on education and cooperative work to ensure compliance, resorting to enforcement only as a last resort when businesses have repeatedly failed to follow State recommendations and orders related to COVID-19. When an LHD inspects a business that is not in compliance, the LHD works with the owner to correct any noted concerns. An Order of Immediate Compliance may be issued if the problem cannot be summarily addressed, giving the owner an opportunity to correct the problem. In certain circumstances, an Order of Immediate Closure may be issued to protect public health, but only if the owner is unwilling or unable to comply.

MDH notes that there are existing appeals processes involving both administrative and judicial review for local health authority decisions. Additionally, MDH notes that there are mechanisms in place to protect both the public and businesses from misconduct, including the Office of the Inspector General and the State Ethics Commission.

I hope this information is useful. If you would like to discuss this further, please do not hesitate to contact me at [webster.ye@maryland.gov](mailto:webster.ye@maryland.gov) / (410) 260-3190 or Heather Shek, Director of Governmental Affairs at [heather.shek@maryland.gov](mailto:heather.shek@maryland.gov) or at the same phone number.

Sincerely,

A handwritten signature in blue ink, appearing to read "Webster Ye".

Webster Ye  
Assistant Secretary, Health Policy