

SB778 Wicomico County, Support.pdf

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Position: FAV



WICOMICO COUNTY, MARYLAND

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WICOMICO COUNTY COUNCIL

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February 8, 2023

Education, Energy, and the Environment Committee
Attn.: Senator Brian J. Feldman, Chair
2 West
Miller Senate Office Building
Annapolis, MD 21401

Dear Honorable Chairman Feldman and Committee Members:

This letter is in support of Senate Bill No. 778, as introduced, authorizing a seasonal restaurant in Wicomico County to use a graywater system without investing in the expense of an on-site sewer disposal system.

The seasonal restaurant is located on a former dredge site in a remote area with minimal public access. Allowing the local business to use a graywater system on a small scale will promote more jobs and revenue for the local economy. The disposal of graywater would be in accordance with the guidelines or regulations adopted by the Maryland Department of Environment, the Maryland Department of Health, or a federal agency.

We thank you for your time and consideration of this letter of support. If you have any questions or concerns, please do not hesitate to contact the Council Office at 410-548-4696.

Sincerely,

WICOMICO COUNTY, MARYLAND



John T. Cannon, Council President

Julie M. Gilchrist, County Executive

cc: Wicomico County Council
Wicomico County State Delegation

MA Testimony_SB778_Opp_WET.pdf

Uploaded by: Carol Dunahoo

Position: UNF



DATE: February 22, 2023
TO: Members, Senate Education, Health and Environmental Affairs Committee
FROM: Wicomico Environmental Trust
RE: SB 778 – Wicomico County – Seasonal Restaurants – Potable Running Water and Graywater

The Wicomico Environmental Trust (WET) **OPPOSES SB 778** regarding Wicomico County – Seasonal Restaurants – Potable Running Water and Graywater.

This bill is a recently renumbered and renamed version of SB 854, which this Committee declined to report out last year. Unfortunately, the Policy Note misses the fact that, although this bill has been recast to apply for now only to selected restaurant(s) in Wicomico County, it proposes very similar exceptions to important public and environmental health laws and raises the same concerns as before. An earlier version of SB 778 was recently considered on short notice and endorsed by a majority of the Wicomico County Council, notably without the benefit of participation by the County Health Department. WET submits that this Committee made the right judgment last year.

The bill continues to propose a special definition of *graywater* that is inconsistent with the current statewide protections of Article – Environment §9-1112. It fails to acknowledge that water used by patrons for hand-washing, including after use of on-site portable toilets, constitutes sewage that must be handled as such to ensure the protection of public and environmental health.

In addition, although the bill is now captioned *Potable Running Water*, it would, in fact, allow the covered restaurant(s) to serve patrons non-running water from a cistern, in contravention of current state health laws and regulations designed to minimize the risk of waterborne illness.

The application of this bill has now been restricted to Wicomico County, making it even clearer that SB 778 is designed to serve a special interest, a major local political donor. However, this restriction in scope does not address any of the underlying concerns. Approval of this bill would put our public and environmental health at risk, permit the proliferation of food service facilities and bars in inappropriate locations throughout the County, and inspire similar demands throughout the State.

For all of these reasons, we respectfully ask that the Committee give an **UNFAVORABLE** report.

Sincerely,

A handwritten signature in cursive that reads "Madeleine B. Adams".

Madeleine Adams
President

madeleine@wicomicoenvironment.org

The Wicomico Environmental Trust champions a healthy environment for all.

The Wicomico Environmental Trust is a public charity recognized as tax exempt by the IRS under Section 501(c)(3). A copy of the current financial statement of Wicomico Environmental Trust, Ltd., is available by writing to WET, P.O. Box 2311, Salisbury, MD 21802. Documents and information submitted under the Maryland Solicitations Act are also available, for the cost of postage and copies, from the Maryland Secretary of State, State House, Annapolis, MD 21401, (410) 974-5534.

SB 778_LOO 2023_EH Dir & MACHO.pdf

Uploaded by: Matt Cumers

Position: UNF

An Affiliate of
the Maryland Association
of Counties, Inc.



DATE: February 23, 2023

TO: Members, Education, Energy, and the Environment

FROM: Maryland Conference of Local Environmental Health Directors
Maryland Association of County Health Officers (MACHO)

RE: SB 778 – Wicomico County – Seasonal Restaurants – Potable Running Water and Graywater

The Maryland Conference of Local Environmental Health Directors (the Conference) and the Maryland Association of County Health Officers (MACHO) **OPPOSE SB 778** allowing a seasonal restaurant to operate without providing potable running water to customers.

According to the 2022 FDA Food Code, one of the major risk factors related to employee behaviors and preparation practices in retail and food service establishments contributing to illness is **poor personal hygiene**. Exempting a seasonal restaurant from providing potable running water to properly wash hands only increases those risks for foodborne illness.

Furthermore, the Code of Maryland Regulations addresses controls for risk factors and further establishes public health interventions to protect consumer health. Current statutes ensure that all food establishments in Maryland are operated and maintained in a manner that assures all food is prepared and served under conditions necessary to protect the public health, safety, and welfare, SB 776 severely undermines the purpose for both regulation and statute pertaining to Food Service Facilities.

For these reasons, we ask that the committee given **SB 778** an **UNFAVORABLE** report.

Thank you for the opportunity to share our views on this matter. If you have further questions concerning this written testimony, please contact:

A handwritten signature in blue ink that reads "Matt Cumers".

Matt Cumers, President
Conference of Local Environmental Health Directors
410-535-3922x114
Matthew.cumers@maryland.gov

A handwritten signature in black ink that reads "Ruth Maiorana".

Ruth Maiorana, Executive Director
Maryland Association of County Health Officers
410-937-1433
rmaiora1@jhu.edu

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Uploaded by: State of Maryland (MD)

Position: UNF



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 23, 2023

The Honorable Brian J. Feldman
Chair, Senate Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
Annapolis, MD 21401-1991

RE: SB 778 – Wicomico County - Seasonal Restaurants - Potable Running Water and Graywater - Letter of Opposition

Dear Chair Feldman and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of opposition for Senate Bill (SB) 778 – Wicomico County - Seasonal Restaurants - Potable Running Water and Graywater. SB 778 will exempt a seasonal food service facility using a graywater system from requirements to provide potable running water to customers.

MDH supports the current requirements for food service facilities, including (1) providing safe (potable) running water to customers, (2) using a three-compartment sink with running potable water for washing utensils, glassware, and food equipment, and (3) safely disposing of wastewater in an approved septic system where public sewer is not available.

Maryland food service facilities must provide potable running water for use by both employees and patrons. Handwashing and cleaning of utensils, glassware, and food equipment with potable water is a cornerstone of food safety nationwide and emphasized in licensed food safety training programs. Water, unless it comes from a potable supply, may serve as a source of contamination for food, equipment, utensils, and hands. The major public health concern with these proposals is that water may become a vehicle for transmission of diseases, thereby increasing the risk of disease.

Septic system design requirements are based on the anticipated needs of a facility, including the maximum number of people that may be present, regardless of whether they are seated indoors or outdoors, or whether the food service facility is open seasonally or year-round. SB 778 will allow a food service facility to circumvent septic system requirements by categorizing some wastewater as graywater. However, the bill does not enumerate the approved uses for graywater, or the conditions of use, as is done for residential graywater under Environment Article § 9-1112. Without proper protections in place, SB 778 could allow a business to flood a field (regardless of soil drainage) with untreated wastewater, which would threaten both the environment and public health.

The appropriate land use of a site is subject to local zoning laws and permitting, which are designed to ensure that activities are adequately supported by environmental systems. The combination of food service facility regulations from MDH, environmental regulations from Maryland Department of the Environment, and local zoning and permitting, establishes standards to protect the environment and public health. SB 778 proposes to circumvent these well-established public health policies and protections without any evidence that this circumvention is justified.

MDH requests an unfavorable report for SB 778. If you would like to discuss this further, please do not hesitate to contact Megan Peters, Acting Director of Governmental Affairs at megan.peters@maryland.gov or (410) 260-3190.

Sincerely,



Laura Herrera Scott, M.D., M.P.H.
Secretary

MDE SB0778 Oppose.pdf

Uploaded by: Tyler Abbott

Position: UNF



The Maryland Department of the Environment
Secretary Serena McIlwain

SB0778

Wicomico County - Seasonal Restaurants - Potable Running Water and Graywater

Position: OPPOSE

Committee: Education, Energy, and the Environment Committee

Date: February 23, 2023

From: Gabrielle Leach

The Maryland Department of the Environment (MDE) **OPPOSES** Senate Bill 778. SB 778 proposes to allow seasonal restaurants in Wicomico County to operate without potable running water and to utilize a graywater system. As proposed a graywater system includes a holding tank connected to a three compartment sanitation sink and a holding tank used to store potable water. The seasonal restaurant is limited to Wicomico County and defined as operating on a seasonal basis and not providing indoor seating to customers. In addition, the seasonal restaurant is located on a former dredge site or in a remote area.

The bill presents two initial legal considerations. First, the bill overlaps and may conflict with § 21-324(c)(5) of the Health General Article, which states that an “unclean and unsanitary” condition exists if a restaurant lacks an adequate potable water supply. Similarly, the bill may overlap and conflict with the Department of Health’s regulatory authority in this area.

Position Rationale

The definition of a three compartment sanitation sink in a restaurant is used to provide a means of sanitizing food service utensils. The method of sanitizing in a three compartment sink involves proper washing, rinsing and sanitizing, required by the Maryland Department of Health in accordance with the US Food and Drug Administration. Restaurants generate a high volume of wastewater that is considered high strength waste containing fats, oils and grease. Hence the reason food service facilities are required to have a grease trap collection system to separate the waste stream.

For the water supply to be based on a holding tank to store potable water does not address the need for water that exceeds the temperature requirements for sanitary purposes. Seasonal operation of a restaurant does not negate the need for lavatory facilities in which water under pressure is necessary for adequate hygiene. Hand washing and waste facilities are necessary for employees and customers if outdoor seating is provided. The bill is allowing the development of a property as a restaurant without satisfying the basic needs of potable water supply and wastewater system. The operation of a food service facility without sufficient plumbing is a risk for both the environment and public health. Potable water used for human consumption is required at a restaurant or purposes beyond drinking. EPA interprets “human

consumption” to include water used for drinking, bathing, showering, cooking, dishwashing, and maintaining oral hygiene. The bill distinguishes running water apart from other types of potable water, but it does not provide a definition of running water. Depending on how the water is obtained by the restaurant and conveyed by the customers, restaurants such as these may or may not be regulated under the Safe Drinking Water Act.

Section 9-410 of the Environment Article defines a Public Water System as a system that “provides to the public water for human consumption through pipes or other constructed conveyances”. Water for these purposes used by 25 or more individuals for 60 or more days per year would require a system to be regulated as a Public Water System, if it is introduced into a constructed conveyance. A constructed conveyance would include stationary structures (pipes or a holding tank), but not a water truck. If running water is interpreted to be water that is in a constructed conveyance, then these systems might operate without being regulated as SDWA Public Water Systems. The bill refers to “a holding tank used to collect and store potable water”, indicating that these restaurants could have constructed conveyances. If water is put into a constructed conveyance, then these would likely be regulated under the SDWA as Transient Non-Community Water Systems, as long as they operate for more than 60 days a year (the bill is not clear on what seasonal means, but it is assumed it includes, at minimum, the 90+ days of summer). These systems would require regular inspections and routine testing for contaminants like E. coli. Maryland has not allowed water systems to establish Public Water Systems using hauled water as their primary water source.

The rationale of this legislative proposal could be used for any business regardless of seasonal use and would undoubtedly expand to other counties. Without proper sanitation food borne outbreaks could increase and jeopardize customers' health and welfare.

For the reasons detailed above, MDE urges a **UNFAVORABLE** report for SB 778.