



DEPARTMENT OF HEALTH

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

February 28, 2025

The Honorable Pamela Beidle
Chair, Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401-1991

RE: Senate Bill (SB) 544 – Food Establishments – Portable Chemical Toilets – Letter of Information

Dear Chair Beidle and Committee members:

The Maryland Department of Health (the Department) respectfully submits this letter of information for Senate Bill (SB) 544 – Food Establishments – Portable Chemical Toilets. SB 544 would allow food establishments that conduct agritourism as defined in §4-212 of the Land Use Article or are licensed as a Class 4 Limited Winery or a Class 8 Farm Brewery (licensed under §2-206 and §2-210 respectively) of the Alcoholic Beverages and Cannabis Article to use a portable chemical toilet instead of a plumbed lavatory. The Department is open to working with the committee and bill sponsors to address some of the concerns we have outlined here.

The Department has been working with other state agencies on the Governor’s Intergovernmental Commission for Agriculture (GICA) workgroup, which is currently discussing value-added agriculture and agritourism. In particular, GICA is working to address inconsistencies across the state in how the definition of agritourism is applied to businesses in different settings.

As drafted, this bill does not address the need for water under pressure for safe food service operations, which, like permanently plumbed lavatories, would also require a method of managing the water. Depending on the size and extent of the food service operation, a given establishment may require running water and bathroom facilities, both for employees and patrons, in order to operate within the bounds of acceptable food safety risk. Currently, SB 544 does not include any limitations on a facility’s size, operation, or other characteristics to provide guidance on when chemical toilets would or would not be sufficient.

The Department has concerns with the continued and permanent use of chemical toilets over properly plumbed and maintained lavatories requiring routine maintenance and inspections. While chemical toilets may be appropriate for an establishment that operates periodically, the Department is concerned that there is no stated limit or qualifier in the bill regarding what qualifies as a “food service facility.” Portable chemical toilets may not be appropriate for a

full-time operation, even in the agritourism business context, due to their inherent public health risks. Chemical toilets are designed for temporary events or as backup facilities, and require routine scheduled emptying. The health hazards can be compounded if the scheduled emptying does not occur for any reason. Additionally, if a chemical toilet is the only lavatory available and becomes inoperable for any length of time due to an issue that is not immediately correctable, the health risks could require suspension of the food service facility's license.

The Department is invested in the value that agritourism and wineries have in preserving Maryland's farming communities and promoting economic growth. However, the Department believes the bill as currently drafted does not adequately account for the expected evolution of these businesses as they mature. Chemical toilets may be appropriate at certain stages of agritourism businesses but do not necessarily remain so as the businesses grow and change. SB 544 rules out the possibility of allowing the current ongoing and collaborative discussions of GICA to provide the appropriate and defined pathways to allow for industry development while balancing public health and safety, which the Department believes would be better and more adequately addressed through regulations. We stand ready to work with the committee and sponsor to address these concerns, in the hope of promoting both agritourism and food safety interests.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "LH Scott".

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