



**The Maryland Department of the Environment
Secretary Serena McIlwain**

***Senate Bill 544
Food Establishments – Portable Chemical Toilets***

Position: Informational
Committee: Finance
Date: February 28, 2025
From: Alex Butler, Deputy Director of Government Relations

The Maryland Department of the Environment (MDE) offers the following **INFORMATIONAL** testimony on SB 544.

Bill Summary

Senate Bill 544 would allow food establishments to use portable chemical toilets if the food establishment: (1) conducts agritourism; (2) has a Class 4 limited winery license; or (3) has a Class 8 farm brewery license. The chemical toilet must be supplied with water, soap, approved hand drying devices, properly ventilated, and kept in a sanitary condition. The bill will likely have a significant impact on MDE's regulatory oversight authority for septic systems and could raise public health concerns.

Position Rationale

Although SB 544 is found in the Health General Article, the bill overlaps with MDE's regulatory authority related to septic systems and sanitary facilities. Food establishments typically must install a septic system, which requires a permit and must follow COMAR 26.04.02. The septic system requirement is designed to protect public health. Chemical toilets, as defined per COMAR 26.04.02.01, do not have a pressurized water supply for hand washing. The lack of pressurized water poses a sanitary and public health risk.

The bill's provisions would also apply very broadly. A "food establishment" is defined as a food service facility or a food processing plant. So the bill would apply to both restaurants and food preparation facilities. "Agritourism" is also broadly as "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 a farm operation." Agritourism includes activities such as: farm museums, guest farms, camping, incidental outdoor stays, classes related to agriculture products or skills, and picnic and party facilities. Depending on the specific circumstances, chemical toilets may not be appropriate for these types of activities and could, in turn, impact sanitation issues and raise public health concerns.

MDE hopes this **INFORMATIONAL** testimony regarding SB 544 is helpful. Please do not hesitate to reach out if you have any questions.

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SENATE BILL 544

J1, A1, M4

5lr2027
CF HB 559

By: **Senator Bailey**

Introduced and read first time: January 23,
2025 Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Food Establishments – Portable Chemical Toilets**

3 FOR the purpose of authorizing certain food establishments to comply with the
4 requirement to provide a convenient lavatory by providing a portable
chemical toilet
5 that otherwise meets certain requirements; and generally relating to
food
6 establishments.

7 BY repealing and reenacting, with amendments,
8 Article – Health – General
9 Section 21–325
10 Annotated Code of Maryland
11 (2023 Replacement Volume and 2024 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Health – General**

15 21–325.

16 (a) **[Each] SUBJECT TO SUBSECTION (D) OF THIS SECTION, EACH** food
17 establishment shall have:

18 (1) A convenient toilet that is:

19 (i) Except as provided in subsection (c) of this section,

20 separated
20 from any room in which food is manufactured, prepared, packed, canned, frozen,
21 sold, or
21 distributed;

22 (ii) Kept in a sanitary condition; and

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1 (iii) Properly ventilated; and

2 (2) A convenient lavatory that is:

3 (i) Supplied with soap, water, towels, or other approved hand drying
4 devices;

5 (ii) Kept in a sanitary condition; and

6 (iii) Properly ventilated.

7 (b) Each food service facility which prepares food and provides seating for patrons
8 established after January 1, 1979, shall have available for the public:

9 (1) A convenient toilet that is kept in a sanitary condition; and

10 (2) A convenient lavatory that is:

11 (i) Supplied with soap, water, towels, or other approved hand drying
12 devices;

13 (ii) Kept in a sanitary condition; and

14 (iii) Properly ventilated.

15 (c) A room that houses a toilet may be constructed within a larger room
16 in which
16 food is manufactured, prepared, packed, canned, frozen, sold, or distributed.

17 **(d) (1) THIS SUBSECTION APPLIES ONLY TO A FOOD ESTABLISHMENT**
18 **THAT IS:**

19 **(i) A BUSINESS THAT CONDUCTS AGRITOURISM, AS DEFINED IN**

20 § 4-212 OF THE LAND USE ARTICLE; **AND OPERATES ONE OR MORE OF THE**
FOLLOWING ACTIVITIES FOR NOT MORE THAN 90 DAYS PER CALENDAR
YEAR:

- i) **FARM TOURS**
- ii) **HAYRIDES**
- iii) **CORN MAZES**
- iv) **SEASONAL PETTING FARMS**
- v) **GUEST FARMS**
- vi) **PUMPKIN PATCHES**
- vii) **"PICK YOUR OWN" OR "CUT YOUR OWN"**
PRODUCE

21 (ii) A CLASS 4 LIMITED WINERY LICENSED UNDER § 2-206 OF
22 THE ALCOHOLIC BEVERAGES AND CANNABIS ARTICLE; AND

23 (iii) A CLASS 8 FARM BREWERY LICENSED UNDER § 2-210 OF
24 THE ALCOHOLIC BEVERAGES AND CANNABIS ARTICLE.

(2) **PORTABLE CHEMICAL TOILETS USED UNDER THIS**
PROVISION MUST:

- I. **BE LIMITED TO USE ONLY DURING THE APPROVED**
90-DAY PERIOD AND REMOVED WITHIN 10 DAYS
AFTER THE EVENT OR SEASON CONCLUDES.
- II. **BE PLACED AT LEAST 200 FEET FROM ANY WATER**
SOURCE, WELL, OR FOOD PREPARATION AREA.
- III. **BE ACCOMPANIED BY HANDWASHING STATIONS WITH**
RUNNING WATER, SOAP, AND SINGLE-USE TOWELS.
- IV. **BE MAINTAINED AND SERVICED BY A LICENSED**
WASTE DISPOSAL PROVIDER TO ENSURE PROPER
SANITATION.
- V. **NOT BE USED AS A SUBSTITUTE FOR PERMANENT**
RESTROOM FACILITIES WHERE FOOD SERVICE IS
PROVIDED UNDER COMAR 10.15.03.

25 ~~(2)~~ (3) A FOOD **SERVICE FACILITY ESTABLISHMENT** MAY COMPLY
WITH THE REQUIREMENT

26 TO PROVIDE A CONVENIENT LAVATORY BY PROVIDING A PORTABLE CHEMICAL
27 TOILET THAT OTHERWISE MEETS THE REQUIREMENTS OF SUBSECTION (A)(2) OR

28 (B)(2) OF THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
2 1, 2025.