

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 290

(Senator Smith, *et al.*)

Finance

Health and Government Operations

Public Health – Cottage Food Products – Definition and Sale

This bill expands the definition of “cottage food product” to include food sold, in accordance with State law and regulations adopted by the Maryland Department of Health (MDH), to a retail food store, including a grocery store or a food cooperative. Prior to selling a cottage food product to a retail store, the owner of a cottage food business must submit to MDH (1) documentation of the owner’s successful completion of an MDH-approved food safety course and (2) the label that will be affixed to the product. The label must include the phone number and email address of the cottage food business and the date the cottage food product was made. By December 30, 2020, and annually thereafter, MDH must report (1) the required documentation and labels submitted by cottage food businesses and (2) any complaints received by MDH related to a cottage food business or cottage food product to specified committees of the General Assembly.

Fiscal Summary

State Effect: MDH can amend its regulations, compile labels submitted by cottage food businesses, and submit the required annual report with existing budgeted resources. Revenues are not affected.

Local Effect: There is no material fiscal or operational impact on local governments or local health departments (LHDs).

Small Business Effect: Potential meaningful.

Analysis

Current Law: “Cottage food product” means a nonhazardous food, as specified in regulations adopted by MDH, that is sold in the State directly to a consumer from a residence, at a farmer’s market or a public event, by personal delivery, or by mail delivery.

A “cottage food business” is a business that (1) produces or packages cottage food products in a residential kitchen in Maryland; (2) sells cottage food products; and (3) has annual revenues from the sale of cottage food products that do not exceed \$25,000.

A cottage food business is generally not required to obtain a license. Among other requirements, cottage food products must be labeled with the statement “Made by a cottage food business that is not subject to Maryland’s food safety regulations.” MDH is authorized to investigate any complaint alleging that a cottage food business has violated applicable food safety laws.

A “food service facility” is a place where food or drink is prepared for sale or service on the premises or elsewhere or any operation where food is served or provided to the public, regardless of whether there is a charge. Food service facilities are a type of “food establishment” regulated under the Health-General Article. A person must have a license from MDH or an LHD to operate a food establishment. A representative of MDH may enter any food establishment at a reasonable time to conduct inspections. “Food service facility” does not include (1) a kitchen in a private home where food is prepared at no charge for guests in the home, at a social gathering, or for service to unemployed, homeless, or other disadvantaged populations; (2) a food preparation or serving area where only nonpotentially hazardous food is prepared or served only by an excluded organization; (3) a hotel, lodging, or rooming house that serves only a continental breakfast; (4) a farmer’s market or public event where raw agricultural products are sold; (5) specified bake sales; or (6) a cottage food business.

A food establishment licensee that violates any law or regulation relating to food establishments is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000 and/or up to 90 days imprisonment for a first violation. For a second violation, the maximum penalty is a \$2,500 fine and/or one year imprisonment. In addition, a violator is subject to a civil penalty of up to \$5,000, to be collected by the District Court for any county, and may be enjoined from continuing the violation. Each day is a separate violation.

Small Business Effect: The bill expands business opportunities for cottage food businesses and may allow a small business to expand product offerings and allow additional small businesses to enter the market. However, expenditures may increase for a small business that chooses to sell cottage food products to a retail store and must attend

the required food safety course and potentially develop a new label for products sold at retail stores.

Additional Information

Prior Introductions: None.

Cross File: HB 527 (Delegate Charkoudian, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Maryland Association of County Health Officers; Department of Legislative Services

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