

**Department of Legislative Services**  
Maryland General Assembly  
2020 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 52 (Delegates Parrott and Johnson)  
Environment and Transportation

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**Local Government - Lemonade Stands - Prohibition on Regulation by Local Law**

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This bill prohibits a municipality, county, or any other political subdivision of the State from adopting or enforcing an ordinance, resolution, rule, or regulation that prohibits or regulates (including by requiring a license, permit, or fee) the occasional sale of lemonade or other nonalcoholic beverages by an individual under age 18 from a stand on private property.

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**Fiscal Summary**

**State Effect:** The bill does not affect State operations or finances.

**Local Effect:** None. Local governments can comply with the bill's provisions with existing resources.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Generally, a person needs to obtain a license before operating a food establishment, and a separate license is required for each food establishment; however, the State allows the sale of certain homemade foods under the Cottage Food Law. Approved foods are non-potentially hazardous and include jams, jellies, baked goods, and candy. Cottage food businesses are not licensed as food service facilities and are not inspected unless there is a complaint or foodborne illness outbreak.

The Maryland Department of Health Prevention and Health Promotion Administration runs the State's Office of Food Protection. The office reviews, licenses, and inspects food

manufacturing facilities in the State. Additionally, the office works with local health departments, other State agencies, and the federal government to assure the safety of the food supply and to respond to any threats to the food supply. “Food” is defined as (1) any substance used as food or drink or a component of food or drink for human beings or (2) chewing gum or any components of chewing gum. 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. A “food processing plant” is any place used for, or in connection with, the commercial manufacturing, preparing, processing, packaging, canning, freezing, storing, distributing, labeling, or holding of food or drink for human consumption.

**Background:** The bill is based on a [similar law enacted by Texas](#) in September 2019. That law also prohibits the regulation of the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property by an individual under age 18.

The Maryland Association of County Health Officers (MACHO) advises that lemonade stands are technically regulated under State law and regulations and are required to have a temporary license that would be issued and enforced by local health departments. MACHO further advises that with regards to food safety, lemonade is considered potentially hazardous because it involves cutting lemons, adding sugar or using a pre-packaged mix, and mixing the substance with water, which would be considered processing food under State law. For such processing, the State generally requires the water used to mix a beverage to be verified as potable.

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### Additional Information

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Maryland Association of County Health Officers; Maryland Department of Health; Maryland Association of Counties; Maryland Municipal League; Baltimore City; Caroline, Howard, Montgomery, and Prince George’s counties; City of Havre de Grace; Department of Legislative Services

**Fiscal Note History:** First Reader - January 23, 2020  
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