

# HOUSE BILL 1077

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1lr1767

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By: **Delegate Saab**

Introduced and read first time: February 5, 2021

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health – Licensing of Food Establishments – Exemption for Open–Air Food**  
3 **Markets**

4 FOR the purpose of providing that a food establishment license is not required for a person  
5 who operates an open–air food market at the person’s place of business and obtains  
6 an exemption from the licensure requirement from the Maryland Department of  
7 Health; and generally relating to the exemption of open–air food markets from food  
8 establishment licensing requirements.

9 BY repealing and reenacting, without amendments,  
10 Article – Health – General  
11 Section 21–305(a)  
12 Annotated Code of Maryland  
13 (2019 Replacement Volume and 2020 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Health – General  
16 Section 21–305(b)  
17 Annotated Code of Maryland  
18 (2019 Replacement Volume and 2020 Supplement)

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

21 **Article – Health – General**

22 21–305.

23 (a) Except as otherwise provided in this subtitle, a person may not operate a food  
24 establishment unless the person is licensed by the Department.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) A separate license is required for each food establishment that a person  
2 owns or operates.

3 (2) Except in Baltimore City, the provisions of this subsection may require  
4 a license for each location where vending machines are operated, but may not require a  
5 separate license for each individual vending machine.

6 (3) Except in Baltimore City, vending machine locations used exclusively  
7 for prepackaged and commercially sealed foods that are not potentially hazardous, as  
8 defined by regulation, are not required to be licensed.

9 (4) In Baltimore City, a license may be required for each individual vending  
10 machine.

11 (5) (i) An excluded organization may operate a food establishment  
12 without a license unless the excluded organization has been issued a license under §  
13 21-304(a)(2)(ii) of this subtitle.

14 (ii) If the Department adopts regulations governing excluded  
15 organizations serving potentially hazardous foods prepared in a private kitchen, an  
16 excluded organization shall meet any requirements in the regulations.

17 (6) A license is not required for a person who:

18 (i) 1. Produces shell eggs;

19 [(ii)] 2. Sells the shell eggs directly to the public; and

20 [(iii)] 3. Is registered with or inspected by the Secretary of  
21 Agriculture under § 4-310 or § 4-311.1 of the Agriculture Article; OR

22 (II) 1. OPERATES AN OPEN-AIR FOOD MARKET AT THE  
23 PERSON'S PLACE OF BUSINESS; AND

24 2. OBTAINS AN EXEMPTION FROM THE LICENSURE  
25 REQUIREMENT FROM THE DEPARTMENT.

26 (7) Except as provided in § 21-304 of this subtitle, nothing in this subtitle  
27 shall preempt the right of a county to require a permit under the authority provided by a  
28 local law, ordinance, or regulation if this subtitle does not require the food establishment  
29 to obtain a State license.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2021.