

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 661
Economic Matters

(Delegates Fennell and D. Barnes)

Health – Food Service Facilities – Beverage Options With Children’s Meals

This bill requires a food service facility that offers a children’s meal for sale to offer as the default beverage with the children’s meal: (1) unflavored, unsweetened, and uncarbonated water; (2) whole, nonfat, or low fat (1% or 2%) pasteurized cow milk with no added flavors or sweeteners; (3) eight ounces or less of a nondairy beverage that is nutritionally equivalent to cow’s milk; or (4) six ounces or less of either 100% fruit or vegetable juice (or a combination of fruit and vegetable juice) or fruit or vegetable juice combined with water or carbonated water that has no added natural or artificial sweetener. A food service facility may offer any lawful beverage as a substitute or alternative to the default beverage on request.

Fiscal Summary

State Effect: The Maryland Department of Health (MDH) can handle the bill’s requirements with existing budgeted resources. The application of existing penalties is not anticipated to materially affect State finances.

Local Effect: Local health departments (LHDs) can enforce the bill with existing budgeted resources. The application of existing penalties is not anticipated to materially affect local finances.

Small Business Effect: Since the bill allows for plain water to be the default beverage, and a restaurant may substitute the default beverage upon a purchaser’s request, any fiscal or operational impact on small businesses is assumed to be minimal.

Analysis

Bill Summary: A “children’s meal” is a combination of food and beverage that is (1) sold together at a single price by a food service facility and (2) primarily intended for consumption by children. A “default beverage” means a beverage automatically included or offered as part of a children’s meal, absent a specific request for a substitute or alternative beverage by the purchaser of the children’s meal.

Current Law: Generally, 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 service facility is a type of food establishment regulated under the Health-General Article. A person may not operate a food establishment unless licensed (by MDH or an LHD) or exempt from licensure requirements. In practice, the licensing, inspection, and enforcement of statutory provisions related to food service facilities are delegated to LHDs. Each food establishment must be separately licensed. A representative of MDH (including an appropriate LHD) may enter any food establishment at a reasonable time to conduct inspections.

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.

Additional Information

Prior Introductions: SB 333 of 2016, a similar bill, received a hearing in the Senate Finance Committee, but no further action was taken. Similar legislation was also considered in the 2015 and 2014 sessions.

Designated Cross File: SB 263 (Senator Beidle) - Finance.

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

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