

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1208

(Delegate Alston, *et al.*)

Health and Government Operations

Finance

Public Health - Prohibited Ingredients in Food

This bill prohibits a person from manufacturing, selling, delivering, holding, or offering for sale in the State food that contains (1) brominated vegetable oil (BVO) (CAS No. 8016-94-2); (2) potassium bromate (CAS No. 7758-01-2); (3) propylparaben (CAS No. 94-13-3); or (4) red dye no. 3 (CAS No. 16423-68-0). Violations are subject to existing criminal and civil penalties. **The bill takes effect October 1, 2028.**

Fiscal Summary

State Effect: The Maryland Department of Health’s (MDH) Office of Food Protection can handle reviews of food with existing budgeted resources. The application of existing penalty provisions is not expected to materially affect State finances.

Local Effect: The bill is not anticipated to have a material impact on local governments. To the extent that local health departments must inspect food products sold in licensed food establishments such as grocery stores, expenditures may increase. The application of existing penalty provisions is not expected to materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Current Law: “Food” means (1) any substance that is used as food or drink for human beings or as a component of food or drink for human beings or (2) chewing gum or any substance that is used as a component of chewing gum.

MDH's Center for Food Processing is responsible for licensing and inspecting facilities that make, process, store, hold, or distribute food to sell wholesale to other businesses in Maryland. The Center for Facility and Process Review conducts a plan and process review for all food processing plants and prototypical food service facilities. Food processing plans are inspected to ensure compliance with applicable State and federal laws and regulations. Facilities that manufacture, process, pack, and hold food and operate (receive or distribute) across state lines fall under U.S. Food and Drug Administration (FDA) jurisdiction and must comply with federal regulations.

The federal Food, Drug, and Cosmetics Act prohibits the manufacture or sale of any food that is adulterated or misbranded. The Food Additives Amendment to the Act authorizes FDA to regulate food ingredients. MDH implements the Maryland Food, Drug, and Cosmetic Act, which conforms to the federal act.

A person who violates any Maryland Food, Drug, and Cosmetic Act prohibition, with specified exceptions, is subject to both criminal and civil penalties. More specifically, a violator is guilty of a misdemeanor, and upon conviction, subject to a fine up to \$10,000 and imprisonment for up to a year for the first conviction, and a fine of up to \$25,000 and imprisonment for up to three years for a second or subsequent conviction. In addition, a person who violates the Maryland Food, Drug, and Cosmetic Act is subject to a civil penalty of up to \$5,000 in an action in any District Court and can be enjoined from continuing the violation. Each day that a violation occurs is a separate violation.

Small Business Effect: Small businesses must comply with the bill's ban on four food ingredients beginning October 1, 2028. Noncompliant businesses will be subject to criminal and civil penalties.

Additional Comments: In January 2025, FDA revoked authorization to use red dye no. 3 in food and ingested drugs. Manufacturers who use it have until January 15, 2027, to reformulate their food products, and until January 18, 2028, to reformulate their ingested drugs to conform with this revoked authorization. While some countries still allow the use of red dye no. 3, foods imported to the United States must comply.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1098 and SB 1136 of 2024.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2025
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