

HOUSE BILL 607

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By: **Delegates Love, Costa, Dwyer, King, Kipke, and Schuh**

Introduced and read first time: February 3, 2010

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Sale of Baked Goods – Private Home Kitchens**

3 FOR the purpose of authorizing a person to sell certain baked goods without a certain
4 license under certain circumstances; requiring a person to register with the
5 Department of Health and Mental Hygiene before the person may sell certain
6 baked goods; requiring certain baked goods to have a certain label; requiring
7 applicants for registration to submit a certain application; establishing certain
8 qualifications for registration; authorizing the Department to make certain
9 inspections under certain circumstances; establishing certain terms and
10 procedures for the renewal of a registration; authorizing the Department to
11 deny a registration to an applicant or suspend or revoke a registration under
12 certain circumstances; requiring a registrant to display a registration in a
13 certain location; prohibiting a person from refusing the Department certain
14 access; establishing certain hearing and appeal procedures; authorizing the
15 Department to order a person to abate certain violations; and generally relating
16 to the registration of persons who sell baked goods that are not potentially
17 hazardous and are made in a private home kitchen.

18 BY repealing and reenacting, with amendments,

19 Article – Health – General

20 Section 21–305(a)

21 Annotated Code of Maryland

22 (2009 Replacement Volume)

23 By adding to

24 Article – Health – General

25 Section 21–3A–01 through 21–3A–15 to be under the new subtitle “Subtitle 3A.

26 Private Home Kitchens”

27 Annotated Code of Maryland

28 (2009 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Health – General**

4 **21–305.**

5 (a) Except as otherwise provided in this subtitle **AND IN SUBTITLE 3A OF**
6 **THIS TITLE**, a person may not operate a food establishment unless the person is
7 licensed by the Department.

8 **SUBTITLE 3A. PRIVATE HOME KITCHENS.**

9 **21–3A–01.**

10 **IF A PERSON REGISTERS WITH THE DEPARTMENT, THE PERSON MAY SELL**
11 **BAKED GOODS THAT ARE NOT POTENTIALLY HAZARDOUS AND ARE MADE IN A**
12 **PRIVATE HOME KITCHEN WITHOUT A LICENSE TO OPERATE A FOOD**
13 **ESTABLISHMENT AS REQUIRED UNDER § 21–305 OF THIS TITLE.**

14 **21–3A–02.**

15 (A) **A PERSON SHALL REGISTER WITH THE DEPARTMENT BEFORE THE**
16 **PERSON MAY SELL BAKED GOODS THAT ARE NOT POTENTIALLY HAZARDOUS**
17 **AND ARE MADE IN A PRIVATE HOME KITCHEN.**

18 (B) **A PERSON WHO REGISTERS WITH THE DEPARTMENT UNDER THIS**
19 **SUBTITLE MAY OFFER BAKED GOODS FOR SALE ONLY:**

20 (1) **FROM THE PERSON’S HOME;**

21 (2) **AT A FARMER’S MARKET; OR**

22 (3) **AT A ROADSIDE STAND.**

23 **21–3A–03.**

24 **BAKED GOODS FROM A PRIVATE HOME KITCHEN SHALL BE CLEARLY**
25 **LABELED WITH:**

26 (1) **A LIST OF INGREDIENTS; AND**

27 (2) **A STATEMENT THAT THE BAKED GOODS:**

28 (i) **HAVE BEEN PRODUCED IN A PRIVATE HOME KITCHEN;**

1 **(II) HAVE NOT BEEN INSPECTED; AND**

2 **(III) ARE NOT FOR RESALE.**

3 **21-3A-04.**

4 **(A) TO APPLY FOR REGISTRATION, AN APPLICANT SHALL SUBMIT AN**
5 **APPLICATION TO THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT**
6 **REQUIRES.**

7 **(B) THE APPLICATION FORM SHALL INCLUDE:**

8 **(1) THE APPLICANT'S NAME AND ADDRESS; AND**

9 **(2) ANY OTHER INFORMATION THE DEPARTMENT REQUIRES.**

10 **21-3A-05.**

11 **TO QUALIFY FOR REGISTRATION, AN APPLICANT SHALL:**

12 **(1) HAVE COMPLETED A SERVSAFE FOOD SAFETY COURSE AND**
13 **HAVE RECEIVED A PASSING SCORE ON A SERVSAFE FOOD SAFETY EXAM;**

14 **(2) COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE AND**
15 **THE REGULATIONS ADOPTED UNDER THIS SUBTITLE;**

16 **(3) AGREE TO PERMIT ACCESS TO THE PRIVATE HOME KITCHEN**
17 **FOR THE PURPOSE OF AN INSPECTION IF THE DEPARTMENT HAS REASON TO**
18 **BELIEVE THE PRIVATE HOME KITCHEN IS BEING OPERATED IN AN UNSANITARY**
19 **MANNER; AND**

20 **(4) PAY THE REGISTRATION FEE SET BY THE DEPARTMENT.**

21 **21-3A-06.**

22 **(A) EXCEPT AS PROVIDED IN § 10-226 OF THE STATE GOVERNMENT**
23 **ARTICLE, A REGISTRATION EXPIRES 1 YEAR FROM THE DATE OF ISSUANCE OR**
24 **RENEWAL.**

25 **(B) AT LEAST 1 MONTH BEFORE THE REGISTRATION EXPIRES, THE**
26 **DEPARTMENT SHALL SEND TO THE REGISTRANT, BY FIRST-CLASS MAIL TO THE**
27 **LAST KNOWN ADDRESS OF THE REGISTRANT, A RENEWAL NOTICE THAT STATES:**

1 (1) **THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;**
2 **AND**

3 (2) **THE DATE BY WHICH THE COMPLETED RENEWAL**
4 **APPLICATION MUST BE RECEIVED BY THE DEPARTMENT FOR THE RENEWAL TO**
5 **BE ISSUED AND MAILED BEFORE THE REGISTRATION EXPIRES.**

6 **(C) THE DEPARTMENT MAY RENEW A REGISTRATION IF THE**
7 **REGISTRANT:**

8 (1) **HAS COMPLIED WITH THIS SUBTITLE AND THE REGULATIONS**
9 **ADOPTED UNDER THIS SUBTITLE;**

10 (2) **SUBMITS TO THE DEPARTMENT A COMPLETED RENEWAL**
11 **APPLICATION ON THE FORM THE DEPARTMENT REQUIRES; AND**

12 (3) **PAYS THE RENEWAL FEE ASSESSED UNDER § 2-104 OF THIS**
13 **ARTICLE; AND**

14 (4) **AGREES TO ALLOW ACCESS TO THE PRIVATE HOME KITCHEN**
15 **AS PROVIDED UNDER § 21-3A-05 OF THIS SUBTITLE FOR PURPOSES OF ANY**
16 **INSPECTION REQUIRED UNDER THIS SUBTITLE.**

17 **21-3A-07.**

18 **(A) WITHIN 30 DAYS AFTER THE DEPARTMENT RECEIVES AN**
19 **APPLICATION FOR A REGISTRATION, THE DEPARTMENT SHALL ISSUE A**
20 **REGISTRATION TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS**
21 **SUBTITLE AND ALL REGULATIONS ADOPTED UNDER THIS SUBTITLE.**

22 **(B) WHILE IT IS EFFECTIVE, A REGISTRATION AUTHORIZES THE**
23 **REGISTRANT TO SELL BAKED GOODS THAT ARE NOT POTENTIALLY HAZARDOUS**
24 **AND ARE MADE IN THE PRIVATE HOME KITCHEN IDENTIFIED ON THE**
25 **REGISTRATION.**

26 **21-3A-08.**

27 **(A) THE DEPARTMENT MAY DENY AN APPLICATION FOR A PRIVATE**
28 **HOME KITCHEN REGISTRATION ISSUED UNDER THIS SUBTITLE IF THE**
29 **DEPARTMENT FINDS THAT THE APPLICANT:**

30 (1) **DOES NOT MEET THE REQUIREMENTS OF THIS SUBTITLE OR**
31 **ANY REGULATIONS ADOPTED UNDER THIS SUBTITLE; OR**

1 **(2) FRAUDULENTLY OR DECEPTIVELY ATTEMPTS TO OBTAIN A**
2 **REGISTRATION.**

3 **(B) WITHIN 30 DAYS OF RECEIPT OF THE COMPLETED APPLICATION,**
4 **THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING:**

5 **(1) THAT THE APPLICATION HAS BEEN DENIED;**

6 **(2) THE SPECIFIC REASONS FOR THE DENIAL OF THE**
7 **APPLICATION; AND**

8 **(3) IF ANY, THE ACTIONS THAT MUST BE TAKEN BY THE**
9 **APPLICANT TO QUALIFY FOR A REGISTRATION.**

10 **(C) AFTER A NOTICE OF DENIAL IS ISSUED, THE DEPARTMENT MAY**
11 **ISSUE A REGISTRATION TO AN APPLICANT IF THE APPLICANT:**

12 **(1) TAKES ALL ACTIONS SPECIFIED IN THE NOTICE OF DENIAL;**
13 **AND**

14 **(2) MEETS THE REQUIREMENTS OF THIS SUBTITLE AND ALL**
15 **REGULATIONS ADOPTED UNDER THIS SUBTITLE.**

16 **(D) AN APPLICANT WHO IS DENIED A REGISTRATION IS ENTITLED TO:**

17 **(1) A HEARING BEFORE THE SECRETARY UNDER § 21-316 OF**
18 **THIS TITLE; AND**

19 **(2) JUDICIAL REVIEW UNDER § 21-317 OF THIS TITLE.**

20 **21-3A-09.**

21 **EACH REGISTRANT SHALL DISPLAY CONSPICUOUSLY THE REGISTRATION**
22 **IN THE PRIVATE HOME KITCHEN.**

23 **21-3A-10.**

24 **(A) TO ENFORCE THIS SUBTITLE, A REPRESENTATIVE OF THE**
25 **DEPARTMENT, AT ANY REASONABLE TIME, MAY:**

26 **(1) ENTER AND INSPECT A PRIVATE HOME KITCHEN IF THE**
27 **DEPARTMENT HAS REASON TO BELIEVE THE PRIVATE HOME KITCHEN IS BEING**
28 **OPERATED IN AN UNSANITARY MANNER; AND**

1 **(2) INSPECT AND SAMPLE ANY BAKED GOODS THAT ARE MADE IN**
2 **THE PRIVATE HOME KITCHEN.**

3 **(B) A PERSON MAY NOT:**

4 **(1) REFUSE TO GRANT ACCESS TO A REPRESENTATIVE OF THE**
5 **DEPARTMENT WHO REQUESTS TO ENTER AND INSPECT A PRIVATE HOME**
6 **KITCHEN UNDER THIS SECTION; OR**

7 **(2) INTERFERE WITH ANY INSPECTION UNDER THIS SECTION.**

8 **21-3A-11.**

9 **IF THE DEPARTMENT FINDS THAT A PRIVATE HOME KITCHEN IS IN**
10 **VIOLATION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS**
11 **SUBTITLE OR IS IN AN UNSANITARY CONDITION, THE SECRETARY SHALL NOTIFY**
12 **THE REGISTRANT:**

13 **(1) OF THE SPECIFIC FINDINGS;**

14 **(2) OF A SPECIFIC, REASONABLE DATE BY WHICH THE**
15 **REGISTRANT SHALL CORRECT THE VIOLATIONS OR DEFICIENCIES SPECIFIED IN**
16 **THE NOTICE; AND**

17 **(3) THAT, IF THE REGISTRANT FAILS TO CORRECT THE**
18 **CONDITIONS BY THE DATE SPECIFIED, THE DEPARTMENT MAY SUSPEND OR**
19 **REVOKE THE REGISTRATION ISSUED UNDER THIS SUBTITLE.**

20 **21-3A-12.**

21 **THE DEPARTMENT MAY SUSPEND OR REVOKE A REGISTRATION ISSUED**
22 **UNDER THIS SUBTITLE IF THE REGISTRANT:**

23 **(1) VIOLATES OR FAILS TO MEET THE REQUIREMENTS OF THIS**
24 **SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR**

25 **(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS A REGISTRATION.**

26 **21-3A-13.**

27 **(A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLES 2 AND 4**
28 **OF THE STATE GOVERNMENT ARTICLE, BEFORE THE DEPARTMENT TAKES ANY**
29 **FINAL ACTION UNDER § 21-3A-08 OR § 21-3A-12 OF THIS SUBTITLE, THE**

1 SECRETARY SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS
2 CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE DEPARTMENT.

3 (B) THE DEPARTMENT SHALL GIVE NOTICE AND HOLD THE HEARING IN
4 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
5 ARTICLE.

6 (C) THE DEPARTMENT SHALL SEND THE HEARING NOTICE TO THE
7 APPLICANT OR REGISTRANT BY CERTIFIED MAIL, RETURN RECEIPT
8 REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL
9 SERVICE.

10 (D) WITHIN 30 DAYS AFTER THE HEARING REQUIRED UNDER THIS
11 SECTION, THE DEPARTMENT SHALL DECIDE THE ISSUE AND IMMEDIATELY
12 NOTIFY THE PARTIES TO THE HEARING.

13 21-3A-14.

14 (A) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE
15 DEPARTMENT IN DENYING, SUSPENDING, OR REVOKING A REGISTRATION
16 ISSUED UNDER THIS SUBTITLE MAY NOT APPEAL TO THE BOARD OF REVIEW,
17 BUT MAY REQUEST JUDICIAL REVIEW.

18 (B) THE REQUEST FOR JUDICIAL REVIEW SHALL BE MADE AS PROVIDED
19 FOR JUDICIAL REVIEW OF FINAL DECISIONS IN TITLE 10, SUBTITLE 2 OF THE
20 STATE GOVERNMENT ARTICLE.

21 (C) EITHER PARTY MAY APPEAL THE DECISION OF THE CIRCUIT COURT
22 TO THE COURT OF SPECIAL APPEALS.

23 21-3A-15.

24 (A) IF THE DEPARTMENT BELIEVES THAT A PERSON IS VIOLATING ANY
25 PROVISION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS
26 SUBTITLE, THE DEPARTMENT MAY HAVE THE PERSON SERVED WITH A WRITTEN
27 ORDER THAT DIRECTS THE PERSON SERVED TO ABATE THE VIOLATION WITHIN
28 A TIME SPECIFIED IN THE ORDER.

29 (B) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE
30 STATE GOVERNMENT ARTICLE, THE DEPARTMENT SHALL GIVE ANY PERSON
31 SERVED WITH AN ORDER UNDER THIS SECTION AN OPPORTUNITY FOR A
32 HEARING BEFORE THE DEPARTMENT.

1 **(C) AFTER A HEARING UNDER THIS SECTION, THE DEPARTMENT MAY**
2 **AFFIRM, MODIFY, OR WITHDRAW THE ORDER.**

3 **(D) A PERSON WHO IS SERVED WITH AN ORDER UNDER THIS SECTION**
4 **MAY NOT VIOLATE THAT ORDER.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2010.