

HOUSE BILL 611

R1, M4

0lr0450
CF SB 477

By: **Delegates Frick, Bronrott, Lee, Barkley, Carr, Dumais, Gutierrez, Hucker, Manno, Mizeur, Rice, and Waldstreicher**

Introduced and read first time: February 3, 2010

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2010

CHAPTER _____

1 AN ACT concerning

2 **State Highways – Mobile Produce Vendors – Required State Lease**

3 FOR the purpose of expanding the application of a provision of law that prohibits
4 certain food vendors from operating on a State highway right-of-way without a
5 certain State lease to include mobile produce vendors; authorizing the State to
6 require a mobile seafood or produce vendor to submit an application and pay a
7 certain fee; prohibiting the State from entering into a lease with a mobile
8 produce vendor unless the applicable county licenses mobile produce vendors;
9 authorizing the State Highway Administration to adopt certain regulations;
10 prohibiting a mobile produce vendor lessee from operating at certain locations;
11 providing that this Act does not diminish the authority of a county to license
12 and regulate mobile produce vendors; establishing certain criminal penalties for
13 a violation of this Act; providing for the enforcement of this Act; defining a
14 certain term; making certain stylistic changes; and generally relating to the
15 operations of mobile seafood and produce vendors.

16 BY repealing and reenacting, with amendments,
17 Article – Transportation
18 Section 24–301 through 24–303
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2009 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Transportation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 24–304
2 Annotated Code of Maryland
3 (2009 Replacement Volume and 2009 Supplement)

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

6 **Article – Transportation**

7 24–301.

8 (a) In this subtitle the following words have the meanings indicated.

9 (b) (1) “Established place of business” means any permanent building or
10 structure from which a permanent business is conducted during normal business
11 hours throughout the year.

12 (2) An established place of business does not include a tent, temporary
13 stand or other temporary quarters, or permanent quarters occupied under a temporary
14 arrangement.

15 (c) “Mobile seafood **OR PRODUCE** vendor” means a person who sells or offers
16 for sale any seafood **OR PRODUCE**:

17 (1) While outdoors on foot;

18 (2) From any vehicle or conveyance, whether or not the vehicle or
19 conveyance is in operating condition; or

20 (3) From any tent, temporary stand, roadside stand, roadside market,
21 or other quarters that is not an established place of business.

22 (d) (1) **“PRODUCE” MEANS ANY FRUIT OR VEGETABLE PRODUCT OF**
23 **THE SOIL THAT IS INTENDED FOR HUMAN CONSUMPTION.**

24 (2) **“PRODUCE” DOES NOT INCLUDE A CANNED, FROZEN, DRIED,**
25 **OR PICKLED PRODUCT.**

26 (E) “Right-of-way” includes any highway area or highway structure and any
27 property adjacent to a highway acquired for the operation or use of the highway.

28 [(e)] (F) “Seafood” means any finfish, crustacean, or mollusk, live or dead,
29 or any part, egg, offspring, or body of any finfish, crustacean, or mollusk, that is
30 intended for human consumption.

31 [(f)] (G) “Shopping center” means any 5 or more contiguous established
32 places of business which share common parking facilities of 25 parking spaces or more.

1 ~~[(g)]~~ **(H)** “State highway” means any public highway owned by this State.
2 24–302.

3 This subtitle does not:

4 (1) Diminish any authority of Anne Arundel County, Howard County,
5 or a municipal corporation to license and regulate mobile seafood vendors;

6 (2) Apply to charitable or nonprofit vendors who sell seafood at
7 short-term festivals or other short-term events; [or]

8 (3) Apply in Calvert County and in St. Mary’s County for those
9 persons selling their own SEAFOOD catch; **OR**

10 **(4) DIMINISH THE AUTHORITY OF A COUNTY TO LICENSE AND**
11 **REGULATE MOBILE PRODUCE VENDORS.**

12 24–303.

13 (a) **(1)** When located on the right-of-way of any State highway, a mobile
14 seafood **OR PRODUCE** vendor may not sell, or offer for sale, any seafood **OR**
15 **PRODUCE**, unless the [mobile seafood] vendor has a lease from the State that
16 [permits] **ALLOWS** the [mobile seafood] vendor to sell, or offer for sale, seafood **OR**
17 **PRODUCE**.

18 **(2) THE STATE MAY REQUIRE A MOBILE SEAFOOD OR PRODUCE**
19 **VENDOR TO SUBMIT AN APPLICATION AND PAY A REASONABLE FEE TO BE**
20 **APPLIED TO ADMINISTRATIVE COSTS.**

21 **(3) THE STATE MAY NOT ENTER INTO A LEASE WITH A MOBILE**
22 **PRODUCE VENDOR UNLESS THE APPLICABLE COUNTY LICENSES MOBILE**
23 **PRODUCE VENDORS.**

24 (b) A mobile seafood **OR PRODUCE** vendor may not sell, or offer for sale, any
25 seafood **OR PRODUCE**, when located:

26 (1) Within 50 yards of any vehicular entrance to or exit from a school
27 or place of worship, unless the [mobile seafood dealer] **VENDOR** has written
28 permission of the applicable school board or person who is responsible for the
29 buildings and grounds of the place of worship;

30 (2) Within 100 yards of any vehicular entrance to or exit from any
31 shopping center;

1 (3) In the parking lot of any shopping center, unless the [mobile
2 seafood] vendor has written permission of the owner of the shopping center and
3 conforms to applicable local laws and ordinances;

4 (4) Within an unsafe distance, as determined by the local authorities,
5 from the edge of any roadway;

6 (5) On any roadway; or

7 (6) On [privately-owned] PRIVATE property adjoining a State
8 highway, unless the [mobile seafood] vendor owns[, leases,] or LEASES THE
9 PROPERTY OR has written permission [of the] FROM THE PROPERTY owner [of the
10 privately-owned property].

11 (C) THE STATE HIGHWAY ADMINISTRATION MAY ADOPT REGULATIONS
12 TO IMPLEMENT THIS SECTION.

13 24-304.

14 (a) A violation of this subtitle is a misdemeanor punishable by the penalty
15 specified in § 27-101(b) of this article.

16 (b) The charging of a person with a violation of this subtitle shall be by
17 means of a traffic citation in the form determined under § 1-605(d) of the Courts
18 Article.

19 (c) The charging of a person with a violation of this section may be
20 performed by any State or local police officer.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 June 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.