

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 199

(Senator Glassman, *et al.*)

Finance

Health and Government Operations

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Seasonal Farmer's Market Producer Sampling License

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This bill authorizes a county to establish a seasonal farmer's market producer sampling license for a producer to prepare and offer samples of a farm product at a farmer's market. The Department of Health and Mental Hygiene (DHMH) must adopt specific regulations related to the sampling license. Moreover, the county issuing the license must adopt an ordinance that sets a license fee and provides for the enforcement of provisions of law under which the license was issued, including penalties for violations. The license is valid for the season for which it is issued and for all farmer's markets in the county.

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Fiscal Summary

**State Effect:** The bill's provisions can be handled with existing budgeted resources.

**Local Effect:** Minimal increase in revenues and expenditures for local health departments (LHDs) in counties that choose to establish a sampling license.

**Small Business Effect:** Minimal increase in expenditures for farmers who choose to purchase a sampling license.

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Analysis

**Bill Summary:** DHMH must adopt regulations that:

- establish eligibility for the license;
- provide for the authorized uses of the license;

- establish standards and approved methods under which sampling will be conducted;
- specify the duration of the season for the license; and
- include other provisions to protect public health and control foodborne illnesses.

**Current Law:** Beer, wine, and liquor sampling is regulated by local license commissions.

Licenses for farmer's markets are administered by LHDs. The majority of counties do not require a license for the sale of fresh farm produce, herbs, cut flowers, and bedding plants in a farmer's market. However, some counties require a license to sell produce at a farmer's market. In certain counties, licenses are only good in one location within that jurisdiction. Overall, there is extensive variation across counties regarding licenses for farmer's markets. Farmers who choose to sell produce at farmer's markets in different jurisdictions have to pay numerous licensing fees. According to the Maryland Department of Agriculture (MDA), most counties require a license to serve samples of jams, jellies, and relishes at farmer's markets.

LHDs currently inspect farmer's markets in accordance with the regulations established by the Department of Health and Mental Hygiene.

**Background:** MDA estimates 110 farmer's markets operate in the State with an average of 10 vendors per market. The majority of vendors participate in more than one market. However, MDA is unsure how many farmer's market vendors are subject to licensing fees. Most markets open around May 1, and customers can purchase a variety of locally grown produce including fruits, vegetables, herbs, eggs, meats, baked goods, and cheeses. Farmer's markets are an important source of income for farmers and an important component in securing a sustainable future for Maryland agriculture.

Approximately 286 farmers in the State participate in the Farmer's Market Nutrition Program (FMNP) in which a total of \$600,000 in checks are available for eligible women, infants, children, and seniors to purchase fresh produce at farmer's markets. FMNP represents an additional source of income for local farmers.

The health concern regarding sampling of products at farmer's markets is not the product produced on the farm but the use of proper hygiene in handling and sampling the good.

**Local Fiscal Effect:** The fiscal impact on local governments depends on the licensing fees established by counties and the extent to which enforcement under the bill's provisions is needed. For example, Kent County estimates the impact could range from

nothing if the county chooses not to pass an ordinance creating a sampling license to at least \$28,000 annually for one part-time position to oversee the bill's provisions.

Since LHDs are currently required to inspect farmer's markets, health inspectors could check for compliance with sampling licenses during seasonal inspections. However, some counties see no reason for a sampling license because there are few farmers in the county, vendors are not interested in providing samples, or current regulations regarding sampling have been effective.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 167 (Delegate Hubbard) - Health and Government Operations.

**Information Source(s):** Kent, Montgomery, and Worcester counties; Baltimore City; Maryland Department of Agriculture; Department of Health and Mental Hygiene; Department of Legislative Services

**Fiscal Note History:** First Reader - February 1, 2010  
mpc/mwc Revised - Senate Third Reader - March 27, 2010

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Analysis by: Erin McMullen

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510