

HOUSE BILL 841

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2lr2134
CF SB 634

By: **Delegates Frick, Dumais, Eckardt, Feldman, Frank, George, Gilchrist, Haddaway-Riccio, Hixson, Hucker, Kach, A. Kelly, Kipke, Krebs, Lee, McDermott, McDonough, McMillan, A. Miller, Ready, Reznik, Schuh, Stocksdale, ~~and Waldstreicher~~ Waldstreicher, Bromwell, Morhaim, and Pendergrass**

Introduced and read first time: February 9, 2012

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2012

CHAPTER _____

1 AN ACT concerning

2 **Food Service Facilities – Open Windows and Doors – ~~Regulations~~**

3 FOR the purpose of ~~requiring the Department of Health and Mental Hygiene, on or~~
4 ~~before a certain date, to adopt certain regulations that allow a food service~~
5 ~~facility to operate with the outer windows or outer doors of the facility open if a~~
6 ~~certain determination is made by a certain local health department; authorizing~~
7 a food service facility to operate with the outer doors or outer windows of the
8 facility open unless the local health department finds evidence of certain vermin
9 or flying insects while the facility is operating with the outer doors or outer
10 windows open; requiring a food service facility to take certain actions under
11 certain circumstances; authorizing a local health department to take certain
12 actions under certain circumstances; providing for the application of this Act;
13 ~~and generally relating to ~~regulations for~~ open windows and doors at food service~~
14 ~~facilities.~~

15 BY adding to

16 Article – Health – General

17 Section 21–324.1

18 Annotated Code of Maryland

19 (2009 Replacement Volume and 2011 Supplement)

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

3 **Article – Health – General**

4 **21-324.1.**

5 ~~ON OR BEFORE JANUARY 1, 2013, THE DEPARTMENT SHALL ADOPT~~
6 ~~REGULATIONS THAT ALLOW FOOD SERVICE FACILITIES TO OPERATE WITH THE~~
7 ~~OUTER WINDOWS OR OUTER DOORS OF THE FACILITY OPEN FOR VENTILATION~~
8 ~~OR OTHER PURPOSES IF THE LOCAL HEALTH DEPARTMENT DETERMINES THAT~~
9 ~~THERE IS NO EVIDENCE OF INFESTATION BY FLYING INSECTS OR OTHER~~
10 ~~VERMIN THAT COULD CREATE AN IMMINENT THREAT TO THE PUBLIC HEALTH~~
11 ~~AT THE FACILITY.~~

12 (A) THIS SECTION DOES NOT APPLY TO AN OUTER DOOR OF A FOOD
13 SERVICE FACILITY THAT LEADS FROM THE KITCHEN TO THE OUTSIDE.

14 (B) A FOOD SERVICE FACILITY MAY OPERATE WITH THE OUTER
15 WINDOWS OR OUTER DOORS OPEN UNLESS, WHILE THE FOOD SERVICE FACILITY
16 IS OPERATING WITH THE OUTER DOORS OR OUTER WINDOWS OPEN, THE LOCAL
17 HEALTH DEPARTMENT:

18 (1) FINDS EVIDENCE OF VERMIN IN FOOD PREPARATION OR
19 FOOD STORAGE AREAS; OR

20 (2) FINDS EVIDENCE OF FLYING INSECTS IN FOOD PREPARATION
21 OR FOOD STORAGE AREAS THAT POSE A SIGNIFICANT THREAT TO SANITATION
22 OR PUBLIC HEALTH.

23 (C) IF A LOCAL HEALTH DEPARTMENT FINDS THAT A FOOD SERVICE
24 FACILITY IS OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS SECTION,
25 THE FOOD SERVICE FACILITY SHALL TAKE IMMEDIATE ACTION TO ELIMINATE
26 THE VERMIN OR FLYING INSECTS.

27 (D) A LOCAL HEALTH DEPARTMENT MAY CLOSE A FOOD SERVICE
28 FACILITY FOUND TO BE OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS
29 SECTION, OR ORDER A TEMPORARY CLOSURE OF THE OUTER WINDOWS AND
30 OUTER DOORS AT THE FOOD SERVICE FACILITY, UNTIL THE VERMIN OR FLYING
31 INSECTS ARE ELIMINATED FROM THE FOOD PREPARATION OR FOOD STORAGE
32 AREAS, OR UNTIL ANOTHER ACTION APPROVED BY THE LOCAL HEALTH
33 DEPARTMENT IS TAKEN.

1 **(E) A FOOD SERVICE FACILITY FOUND TO BE OPERATING IN VIOLATION**
 2 **OF SUBSECTION (B) OF THIS SECTION ON THREE OR MORE SEPARATE**
 3 **OCCASIONS SHALL KEEP THE OUTER WINDOWS AND OUTER DOORS CLOSED AT**
 4 **ALL TIMES UNTIL:**

5 **(1) MODIFICATIONS APPROVED BY THE LOCAL HEALTH**
 6 **DEPARTMENT ARE MADE TO THE FOOD SERVICE FACILITY TO EFFECTIVELY**
 7 **PROTECT AGAINST THE ENTRANCE OF VERMIN AND FLYING INSECTS; OR**

8 **(2) ANOTHER ACTION APPROVED BY THE LOCAL HEALTH**
 9 **DEPARTMENT IS TAKEN.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 11 ~~October~~ July 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.