

Chapter 338

(House Bill 1087)

AN ACT concerning

Business Regulation – Micro Markets – Licensure

FOR the purpose of providing that the owner or operator of a micro market is not required to have a person in charge present during certain hours of operation under certain circumstances; establishing the requirements for certain food sold at a micro market; requiring the owner or operator of a micro market to post a certain sign that includes certain information in a certain manner and written in a certain language; authorizing the owner or operator of a micro market to secure the product and premises of a micro market by use of video surveillance that meets certain requirements; requiring certain video surveillance recordings to be maintained for a certain number of days and to be made available for inspection by the ~~Department of Labor, Licensing, and Regulation~~ Comptroller or other regulatory or law enforcement agencies on request and within a certain number of hours of a certain request; requiring a person to have a micro market license to operate one or more micro markets in the State; providing for the scope of a micro market license; requiring an applicant for a micro market license to provide to a certain clerk a certain form, including certain information, and a certain fee; providing for a certain violation of law; establishing a certain penalty; defining certain terms; and generally relating to the licensing of micro markets.

BY repealing and reenacting, without amendments,

Article – Business Regulation

Section 1–101(a), (b), and ~~(c)~~ (c)

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

BY adding to

Article – Business Regulation

Section 17–1701 through 17–1706 to be under the new subtitle “Subtitle 17. Micro Markets”

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 21–301(h)

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

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

Article – Business Regulation

1–101.

- (a) In this article the following words have the meanings indicated.
- (b) “Clerk” means the clerk of the circuit court for the county with appropriate jurisdiction.
- (c) “Comptroller” means the Comptroller of the State.
- ~~(d) “Department” means the Department of Labor, Licensing, and Regulation.~~

SUBTITLE 17. MICRO MARKETS.

17–1701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “FOOD SERVICE FACILITY” HAS THE MEANING STATED IN § 21–301 OF THE HEALTH – GENERAL ARTICLE.

(C) “MICRO MARKET” MEANS AN UNSTAFFED, SELF–CHECKOUT RETAIL FOOD SERVICE FACILITY THAT:

- (1) INCLUDES ONE OR MORE MICRO MARKET DISPLAYS;**
- (2) HAS AN AUTOMATED PAYMENT KIOSK OR OTHER DEVICE DESIGNED TO ACCEPT ELECTRONIC PAYMENTS THAT IS OPERATED BY THE CONSUMER;**
- (3) IS LOCATED INDOORS AND WITHIN A SEPARATE BUSINESS; AND**
- (4) IS GENERALLY ACCESSIBLE ONLY TO INDIVIDUALS WITHIN THE BUILDING IN WHICH THE FOOD SERVICE FACILITY IS LOCATED.**

(D) “MICRO MARKET DISPLAY” MEANS THE PLACE WHERE THE FOOD BEING SOLD BY A MICRO MARKET IS DISPLAYED, INCLUDING:

- (1) AN OPEN RACK;**
- (2) A REFRIGERATOR OR A REFRIGERATED COOLER;**

- (3) A FREEZER;**
- (4) A VENDING MACHINE;**
- (5) A BEVERAGE DISPENSER; OR**
- (6) A SINGLE-SERVE COFFEE BREWER.**

(E) “MICRO MARKET LICENSE” MEANS A LICENSE ISSUED BY THE CLERK TO OPERATE A MICRO MARKET.

17-1702.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE OWNER OR OPERATOR OF A MICRO MARKET MAY NOT BE REQUIRED TO HAVE A PERSON IN CHARGE PRESENT DURING THE HOURS OF OPERATION OF THE MICRO MARKET IF THE MICRO MARKET MEETS THE REQUIREMENTS OF THIS SECTION.

(B) FOOD SOLD AT A MICRO MARKET SHALL:

(1) BE COMMERCIALLY PREPACKAGED FOOD OR READY-TO-EAT FOOD;

(2) BE PREPACKAGED IN TAMPER-EVIDENT PACKAGING; AND

(3) CONTAIN THE FOLLOWING INFORMATION ON THE PACKAGING LABEL:

(I) NUTRITION INFORMATION REQUIRED BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT;

(II) A FRESHNESS OR EXPIRATION DATE; AND

(III) ANY OTHER INFORMATION REQUIRED UNDER TITLE 21, SUBTITLE 2 OF THE HEALTH – GENERAL ARTICLE.

(C) REFRIGERATED OR FROZEN FOOD SOLD AT A MICRO MARKET SHALL BE STORED AND DISPLAYED IN A REFRIGERATOR, REFRIGERATED COOLER, OR FREEZER THAT:

(1) MAINTAINS AN INTERNAL TEMPERATURE:

(I) OF 41 DEGREES FAHRENHEIT OR LOWER; OR

(II) FOR FOOD SAFETY DETERMINED BY THE MARYLAND DEPARTMENT OF HEALTH;

(2) HAS SELF-CLOSING DOORS;

(3) HAS DOORS THAT ALLOW THE FOOD ON DISPLAY TO BE VIEWED WITHOUT OPENING THE DOOR TO THE REFRIGERATOR, REFRIGERATED COOLER, OR FREEZER; AND

(4) HAS AN AUTOMATED SELF-LOCKING FEATURE THAT PREVENTS A CONSUMER FROM ACCESSING THE FOOD ON THE OCCURRENCE OF ANY CONDITION THAT RESULTS IN THE FAILURE OF THE REFRIGERATOR, REFRIGERATED COOLER, OR FREEZER TO MAINTAIN THE INTERNAL TEMPERATURE REQUIRED UNDER ITEM (1) OF THIS SUBSECTION.

(D) (1) THE OWNER OR OPERATOR OF A MICRO MARKET SHALL POST A SIGN THAT IS CLEARLY VISIBLE TO THE CONSUMER NEAR THE MICRO MARKET ENTRYWAY OR WHILE USING THE ELECTRONIC PAYMENT DEVICE THAT INCLUDES THE FOLLOWING INFORMATION:

(I) THE NAME OF THE OWNER OR OPERATOR OF THE MICRO MARKET TO WHOM COMPLAINTS AND COMMENTS REGARDING THE MICRO MARKET MAY BE ADDRESSED;

(II) THE BUSINESS MAILING ADDRESS OF THE OWNER OR OPERATOR;

(III) THE BUSINESS TELEPHONE NUMBER OF THE OWNER OR OPERATOR; AND

(IV) THE E-MAIL ADDRESS AND WEBSITE ADDRESS OF THE OWNER OR OPERATOR, IF APPLICABLE.

(2) THE SIGN POSTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN ENGLISH AND, AT THE DISCRETION OF THE OWNER OR OPERATOR OF THE MICRO MARKET, IN ANY OTHER LANGUAGE OF THE CONSUMERS OF THE MICRO MARKET.

17-1703.

(A) THE OWNER OR OPERATOR OF A MICRO MARKET MAY SECURE THE PRODUCT AND PREMISES OF A MICRO MARKET BY USE OF VIDEO SURVEILLANCE THAT:

(1) OPERATES 24 HOURS PER DAY, 7 DAYS PER WEEK;

(2) RECORDS CONSUMERS VIEWING, SELECTING, HANDLING, AND PURCHASING PRODUCTS FROM THE MICRO MARKET; AND

(3) PROVIDES SUFFICIENT RESOLUTION TO IDENTIFY CONSUMERS DESCRIBED IN ITEM (2) OF THIS SUBSECTION.

(B) (1) A VIDEO SURVEILLANCE RECORDING MADE UNDER SUBSECTION (A) OF THIS SECTION SHALL BE MAINTAINED BY THE OWNER FOR 14 DAYS AFTER THE DATE OF THE VIDEO SURVEILLANCE RECORDING.

(2) THE OWNER OR OPERATOR OF A MICRO MARKET SHALL MAKE A VIDEO SURVEILLANCE RECORDING AVAILABLE FOR INSPECTION BY THE ~~DEPARTMENT~~ COMPTROLLER OR ANY OTHER REGULATORY OR LAW ENFORCEMENT AGENCY:

(I) ON THE REQUEST OF THE ~~DEPARTMENT~~ COMPTROLLER OR THE REGULATORY OR LAW ENFORCEMENT AGENCY; AND

(II) WITHIN 24 HOURS FROM THE TIME THE REQUEST IS RECEIVED BY THE OWNER OR OPERATOR.

17-1704.

(A) A PERSON MUST HAVE A MICRO MARKET LICENSE TO OPERATE ONE OR MORE MICRO MARKETS IN THE STATE.

(B) A LICENSE ISSUED TO A PERSON AUTHORIZES THE HOLDER TO OPERATE A MICRO MARKET IN THE STATE.

17-1705.

AN APPLICANT FOR A MICRO MARKET LICENSE SHALL PROVIDE TO THE CLERK:

(1) A FORM REQUIRED BY THE ~~DEPARTMENT~~ COMPTROLLER THAT INCLUDES THE ADDRESS OF EACH MICRO MARKET TO BE OPERATED BY THE APPLICANT; AND

(2) A LICENSE FEE OF \$50.

17-1706.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT OPERATE A MICRO MARKET IN THE STATE UNLESS THE PERSON HAS A MICRO MARKET LICENSE.

(B) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

Article – Health – General

21-301.

(h) (1) “Food service facility” means:

(i) A place where food or drink is prepared for sale or service on the premises or elsewhere; or

(ii) Any operation where food is served to or provided for the public, with or without charge.

(2) “FOOD SERVICE FACILITY” INCLUDES A MICRO MARKET LICENSED UNDER TITLE 17, SUBTITLE 17 OF THE BUSINESS REGULATION ARTICLE.

[(2)] (3) “Food service facility” does not include:

(i) A kitchen in a private home where food is prepared at no charge for guests in the home, for guests at a social gathering, or for service to unemployed, homeless, or other disadvantaged populations;

(ii) A food preparation or serving area where only nonpotentially hazardous food, as defined by the United States Food and Drug Administration, is prepared or served only by an excluded organization;

(iii) A location in a farmer’s market or at a public festival or event where raw agricultural products, as defined in § 21-304(d)(1)(iii) of this subtitle, are sold; or

(iv) A cottage food business.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

Approved by the Governor, April 24, 2018.