

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1004
Health

(Delegate Alston, *et al.*)

Public Health - Prohibited Ingredients in Food

This bill prohibits a person from manufacturing, selling, delivering, holding, or offering for sale food that contains (1) brominated vegetable oil (BVO) (CAS No. 8016-94-2); (2) potassium bromate (CAS No. 7758-01-2); (3) propylparaben (CAS No, 94-13-3); (4) red 3 (CAS No. 16423-68-0); or (5) any other ingredient or additive that is prohibited for use in food under regulations adopted by the U.S. Food and Drug Administration (FDA) or any other federal law or regulation. Violations are subject to existing criminal and civil penalties. **The bill takes effect July 1, 2027.**

Fiscal Summary

State Effect: The Maryland Department of Health (MDH) can likely handle enforcement with existing budgeted resources. The application of existing penalty provisions is not anticipated to materially affect State finances.

Local Effect: To the extent that local health departments (LHDs) must inspect food products sold in licensed food establishments, LHDs may require additional staff. Expenditures may increase accordingly beginning in FY 2028. The application of existing penalty provisions is not anticipated to materially affect local government finances.

Small Business Effect: Minimal.

Analysis

Current Law: “Food” means (1) any substance that is used as food or drink for human beings or as a component of food or drink for human beings or (2) chewing gum or any substance that is used as a component of chewing gum

MDH's Center for Food Processing is responsible for licensing and inspecting facilities that make, process, store, hold, or distribute food to sell wholesale to other businesses in Maryland. The Center for Facility and Process Review conducts a plan and process review for all food processing plants and prototypical food service facilities. Food processing plans are inspected to ensure compliance with applicable State and federal laws and regulations. Facilities that manufacture, process, pack, and hold food and operate (receive or distribute) across state lines fall under FDA jurisdiction and must comply with federal regulations.

The federal Food, Drug, and Cosmetics Act prohibits the manufacture or sale of any food that is adulterated or misbranded. The Food Additives Amendment to the Act authorizes FDA to regulate food ingredients. MDH implements the Maryland Food, Drug, and Cosmetic Act, which conforms to the federal act.

A person who violates any Maryland Food, Drug, and Cosmetic Act prohibition, with specified exceptions, is subject to both criminal and civil penalties. More specifically, a violator is guilty of a misdemeanor, and upon conviction, a fine up to \$10,000 and imprisonment of up to a year for the first conviction, and a fine up to \$25,000 and imprisonment up to three years for a second or subsequent conviction. In addition, a person who violates the Maryland Food, Drug, and Cosmetic Act is subject to a civil penalty of up to \$5,000 in an action in any District Court and can be enjoined from continuing the violation. Each day that a violation occurs is a separate violation.

Additional Comments: FDA manages a Generally Recognized As Safe database and [Substance Added to Food List](#) to approve intentionally added food ingredients that have been adequately tested and deemed safe. Potassium bromate and propylparaben are generally deemed safe. On July 2, 2024, FDA issued a rule to [revoke](#) the authorization for the use of BVO in food. Additionally, the FDA manages a [Color Additive Status List](#). On January 15, 2025, FDA issued an order to [revoke](#) the authorization for the use of red dye 3 in food and ingested drugs.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 1136 and HB 1098 of 2024.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

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caw/jc

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