

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 272

(Chair, Health Committee)(By Request - Departmental - Health)

Health

Finance

Food Establishments - Lavatory Requirement and On-Farm Food Service
Facility License

This departmental bill alters the definition, duration, and license fee for an “on-farm food service facility.” The license fee must be determined by the Maryland Department of Health (MDH) based on the anticipated cost of licensing, regulating, and inspecting licensees, and cannot exceed \$100. A license is valid for one year unless renewed. The bill outlines requirements for the adoption of regulations related to on-farm food service facilities. The bill also expands the type of portable toilets that can be used in conjunction with food service related to agritourism. **The bill’s provision relating to portable toilets takes effect July 1, 2026, while provisions relating to on-farm food service facility licenses take effect January 31, 2027.**

Fiscal Summary

State Effect: MDH general fund revenues may increase minimally beginning in FY 2027, as discussed below. MDH can train local health department (LHD) inspectors to enforce the bill using existing budgeted resources.

Local Effect: The Maryland Association of County Health Officers (MACHO) advises that LHDs can likely handle inspection and enforcement responsibilities with existing budgeted resources, as discussed below.

Small Business Effect: MDH has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

On-farm Food Service Facilities

The current definition of on-farm food services facility is repealed. Instead, the bill defines “on-farm food service facility” as a food service facility that is located on a farm and serves food as designated by MDH.

MDH must, in consultation with the Maryland Department of Agriculture, the Maryland Department of the Environment, and key stakeholders (including the appropriate delegated approval authority and at least one representative of county governments designated by the Maryland Association of Counties) adopt regulations for an on-farm food service facility regarding access to water, management of wastewater, outdoor cooking and food preparation, the use of on-farm structures for food preparation and patron seating, toileting facilities, and other requirements necessary for the protection of public health. In adopting the regulations, MDH may consider the expected number of patrons, the expected frequency of operation, how to consider current or planned physical structures, and how to assess whether the anticipated operation of an on-farm food service facility is consistent with the continued operation of the farm on which it is located.

The bill may not be construed to (1) limit the application of current or future building codes, zoning codes, land use designations, or public health and safety regulations enacted by a county or local government to an on-farm food service facility or (2) authorize MDH to conduct or require an assessment of the value of real property, evaluate real property for the purpose of valuation or taxation, or exercise any authority otherwise reserved to the State Department of Assessments and Taxation.

Portable Toilets

The bill expands the type of portable toilets that can be used by certain food establishments (a business that conducts agritourism, Class 4 limited wineries, and Class 8 farm breweries) from a *portable chemical toilet* to a *portable toilet*, thereby allowing businesses to use either chemical or water-based flush portable toilets.

Current Law:

On-farm Food Service Facilities

An “on-farm food service facility” is a food service facility that is located on a farm, serves food as designated by MDH, and operates for no more than 30 consecutive days with up to

two renewals during a one-year period. A license to operate an on-farm food service facility expires after 30 consecutive days unless renewed and may be renewed up to two times in a one-year period.

At least one month before an on-farm food service facility license expires, MDH must send a renewal notice to the last known address of the licensee that includes (1) the date on which the license expires and (2) the date by which a completed renewal application must be received for the renewal to be issued.

Portable Toilets

“Food establishment” means a food service facility or a food processing plant. Every food establishment is required to provide:

- a convenient toilet, separated from any room containing or involving food, and kept in a sanitary condition; and
- a convenient lavatory that is (1) supplied with soap, water, and a method to dry hands; (2) kept in a sanitary condition; and (3) properly ventilated.

Chapters 761 and 762 of 2025 specified that certain food establishments – a business that conducts agritourism, Class 4 limited wineries, and Class 8 farm breweries – can comply with the requirement to have a convenient lavatory by providing a portable chemical toilet that is (1) supplied with soap, water, and a method to dry hands; (2) kept in sanitary condition; (3) properly ventilated; and (4) placed at least 25 feet from a well. Prior to those Acts, under Maryland regulations (COMAR 26.04.02.08), chemical toilets could only be used for special-term events such as construction projects or music festivals.

Background: Chapter 179 of 2005 defined an on-farm food service facility and set the term of a license at no more than 30 consecutive days with up to two renewals per year. MDH reports that many agritourism businesses feel the current license for on-farm food service facilities is too restrictive in its duration, while the resources needed to become a licensed food service facility that can operate year-round are too costly. Thus, the bill expands opportunities for agritourism businesses and other on-farm food service facilities to operate under current costs but for a longer period.

State Revenues: MDH’s Office of Food Protection (OFP) estimates that between 30 and 50 facilities will seek licensure as an on-farm food service facility. If OFP sets the license fee to its maximum permitted amount of \$100 and 50 facilities seek licensure, general fund revenues increase by \$5,000 annually beginning in fiscal 2027. However, MDH advises that the license fee could also be set to \$0, in which case revenues would not be affected. Thus, MDH general fund revenues increase indeterminately beginning in fiscal 2027, dependent on the number of facilities seeking licensure and the license fee set by OFP.

Local Fiscal Effect: Though LHDs can likely fulfill their responsibilities under the bill with existing resources, MACHO notes that the actual cost to LHDs of licensing, inspecting, and regulating on-farm food service facilities would likely exceed the revenue generated by the bill, given the \$100 cap on license fees. Thus, LHDs will have to fill in the gap with existing resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Maryland Department of Agriculture; Maryland Department of the Environment; Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2026
js/jc Third Reader - March 19, 2026
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Food Establishments - Lavatory Requirement and On-Farm Food Service Facility License

BILL NUMBER: HB 272

PREPARED BY: Samuel Paul

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This proposal will have a meaningful fiscal impact for small on-farm businesses seeking to obtain an on-farm food service facility license, as it will reduce the barrier of entry to allow them to operate year-round without requiring them to adhere to more limiting regulatory requirements under a conventional food service facility license (e.g., requirements for building infrastructure, equipment, lavatory facilities, etc.).

While larger on-farm businesses are more likely to have the resources, infrastructure, equipment, etc. needed to comply with existing requirements under a conventional food service facility license, and are likely to be less impacted by the legislation.

The number of businesses which will pursue the new on-farm food service facility license is unknown. The Office of Food Protection believes the number may be thirty to fifty, but not enough information exists to confirm the estimate. The dollar amount increase of revenues for the licensees is not calculable, but the proposed bill does significantly improve the availability of on-farm food service as a source of revenue.