

CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF LAW

GEORGE A. NELSON, City Solicitor  
101 City Hall  
Baltimore, Maryland 21202

September 24, 2009

The Honorable President and Members  
of the Baltimore City Council  
Attn: Karen Randle, Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

Re: City Council Bill 09-0373 – Food Service Facilities – Suspension or  
Nonrenewal of Licenses – Multiple or Unpaid Citations

Dear Madame President and City Council Members:

The Law Department has reviewed City Council Bill 09-0373 for form and legal sufficiency. This bill proposes to add Section 6-603.1 to the Health Code of Baltimore City (hereinafter “Health Code”) to allow for the suspension or nonrenewal of a food service facility license that has received environmental control board citations under City Code, Article I, Subtitle 40 or multiple civil citations under City Code, Article I, Subtitle 41 within the preceding six months, or that has been declared in default of one or more environmental control board citations or civil citations within the preceding twelve months. The bill also would mandate that the Health Commissioner provide a food service facility with notice and an opportunity for a hearing prior to the suspension of a license under Section 6-603.1.

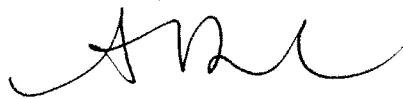
The Health Commissioner has the authority to ensure that all laws for the preservation of the health of the inhabitants of Baltimore City are faithfully executed, and has general care of, and responsibility for, the prevention of disease, epidemics, and nuisances affecting public health. *See* Charter, Article VII, §56(a). Pursuant to this general authority, and a concurrent authority under State law, the Health Commissioner has the power to regulate food service facilities. *See* Health Code, §6-502; Md. Code, Health Gen., §§ 21-303, 21-304(c). Currently, the Health Commissioner can immediately suspend or revoke a food service facility license if he concludes that it is “necessary in the interest of public health.” *See* Health Code, §6-603. This bill would expand upon that power by allowing the Health Commissioner suspend or refuse to renew the license of a food service facility based on multiple violations of the Subtitles 40 and 41 of Article I the City Code (environmental control board citations and civil citations respectively), which both cover different health related violations. *See* Balt. City Code, art. I, §§ 40-13, 41-2. Allowing the Health Commissioner to use multiple environmental control board of civil citations as a basis for suspending or refusing to renew food service facility licenses is consistent with the Health Commissioner’s powers so long these violations are health related. An amendment to that effect is attached.



Additionally, the law department recommends two amendments to conform the language in the notice and opportunity to be heard language proposed in the bill to that of the rest of Title 6 of the Health Code. One of those amendments requires a minor change in the wording of Section 6-604 of the Health Code. These proposed amendments are also attached.

Subject to the foregoing amendments, the Law Department approves City Council Bill 09-0373 for form and legal sufficiency.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Amy Beth Leasure', written in a cursive style.

Amy Beth Leasure  
Assistant Solicitor

cc: George Nilson, City Solicitor  
Angela C. Gibson, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor  
Ashlea Brown, Special Assistant Solicitor

**CITY OF BALTIMORE  
COUNCIL BILL 09-0373  
(Amendment)**

On page 1, line 24 and page 2, line 5, after “MORE” insert “HEALTH RELATED”

On page 2, line 4, after “FACILITY” insert “HAS”

On page 2, line 10, after “SUSPENDING” insert “OR REFUSING TO RENEW”

On page 2, line 13, insert the following

**§ 6-604. Reinstatement of suspended licenses.**

**(c) Required reinstatement.**

If, on reinspection, the facility is found to comply with all APPLICABLE requirements [of this title], the license must be reinstated.