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	Agency Name & Address	Health Department 1001 E. Fayette Street Baltimore, Maryland 21201		
	Subject	Council Bill 14-0432 – Food Service Facilities – Mirroring State Law		

To: President and Members
of the City Council
c/o 409 City Hall

October 3, 2014

The Baltimore City Health Department (BCHD) is pleased to have the opportunity to review Council Bill 14-0432 – Food Service Facilities – Mirroring State Law. The purpose of this bill is to redefine the Baltimore City Health Code definition of “food service facility” to mirror State law; providing, in accordance with State law, for a certain licensing exception; clarifying the basis for certain license application fees; defining and redefining certain terms; clarifying, correcting, and conforming related provisions; and generally relating to the regulation of food service facilities.

Under current Baltimore City Health Code (HC) §6-101 (c)), all food service, distribution or preparation sites except a private residence where food is served and prepared without charge for residents and their guests fall under the definition of “food service facility.”

Since all food service facilities must obtain a food service facility license from the Commissioner of Health, this creates a licensing requirement for a number of entities exempted from the licensing requirement under State law, including the following:

- a non-residential private gathering not open to the public, like an office pot-luck
- a church collecting canned goods and distributing them to disadvantaged persons in the church parking lot
- a fraternal organization hosting a bake sale
- a news stand selling only chewing gum, chips and other pre-packaged, non-potentially hazardous foods

Amending the Baltimore City Health Code Food Service Facilities definition of “food service facility” to bring it into line with that of the State will de-criminalize the offering of food at private events that are not open to the public and will make it possible, for example for non-profit groups, including faith based organizations, to offer non-potentially hazardous foods¹ to the public four or fewer days a week without the need to upgrade their facility to a commercial standard (at great expense) or to obtain an annual food license.

In addition, the change will allow a non-profit that does not meet these parameters to make a non-rescindable decision to either operate with a license and in full compliance with COMAR or to operate *without* a license provided the food is prepared at the non-profit organization or in or in a licensed food establishment and provided the organization operates in compliance with provisions of COMAR which establish minimum requirements to ensure food safety.

This alignment with State regulations will promote the ability of non-profits to serve their membership, host fundraisers and to have more frequent events.

The change will also serve to promote cottage food businessesⁱⁱ selling non-potentially hazardous foods at farmers markets, fundraisers and public events, not permissible under the City's current broad definition of food service facility. Such businesses are permitted to operate elsewhere in the State without obtaining a food facility license. The change will promote small cottage food businesses and will increase participation in farmers markets helping those markets to grow.

In summary, once aligned with State regulations, it will be possible for the following sites to prepare and offer food without first having to obtain a food license:

- Excluded organizations (non-profits as described above)
- Sites that only offer prepackaged non-potentially hazardous foods
- Kitchens in a private home providing food to the unemployed, the homeless or other disadvantaged populations
- Hotels, lodging or rooming houses serving only a "Continental breakfast"ⁱⁱⁱ that does not require major food preparation
- Farmers market where a person offers or sells (directly to the public) raw agricultural products, including eggs; non-potentially hazardous foods that do not require refrigeration and are processed in a licensed food processing plant or cottage foods
- Fundraisers hosting a bake sale where non-potentially hazardous bakery goods, including breads and pastries are sold in conjunction with a fundraising event
- Cottage food businesses

BCHD regulates food service facilities to ensure the public health. Through these changes, BHCD can ensure that duty is fulfilled while still playing a role in helping Baltimore's non-profits, those wishing to develop a cottage food business and others wishing to host private events to be exempted from local fees and licensing requirements where State licensure is not required. In this way we can help to ensure their success and ultimately their satisfaction in operating in Baltimore City.

We fully support the bill and BCHD will attend the hearing to provide any additional information and answer any questions that the Council may have.

cc: Angela Gibson, Office of the Mayor
Valerie Rogers, Chief of Staff, Department of Health
Dr. Patrick Chaulk, Acting Deputy Commissioner, Department of Health
Shannon Mace Heller, Interim Legislative Director, Department of Health

ⁱ Non-potentially hazardous foods include:

- Air-cooled, hard-boiled egg, shell intact
Food with an a_w value of 0.85 or less (a_w indicates water activity, the expression used for the amount of water available in the food product to allow bacteria to live and grow)
- Food with a pH level of ≤ 4.6 when measured at 75°F (pH levels ≤ 4.6 are not conducive to growth of infectious/toxigenic microorganisms due to their acidity)
- Commercially sterile food in a hermetically sealed container
- Food where growth of infectious/toxigenic microorganisms cannot occur or that contains a preservative, and or/other barrier to prevent such growth

ⁱⁱ Includes foods such as: coffee and tea, juice, cereal, milk and cream, whole fresh fruit, pastries, bread, donuts, butter and margarine, and/or jams and jellies.

ⁱⁱⁱ Cottage food businesses may offer the following non-potentially hazardous products:

- hot-filled canned acid fruit jellies, jams, preserves, and butters that are:
 - (a) Unadulterated
 - (b) Packaged to maintain food safety and integrity
 - (c) Labeled in accordance with
- Non-potentially hazardous baked goods
- Non-potentially hazardous candy
- All other non-potentially hazardous foods produced by a licensed entity