



Committee: HHS
Committee Review: N/A
Staff: Livhu Ndou, Legislative Attorney
Purpose: To receive testimony/final action - vote expected
Keywords: #ItinerantFoodServiceFacilities,
#TemporaryFoodService, #TemporaryPermits

AGENDA ITEMS #6&19C
June 29, 2021
Public Hearing/Action

SUBJECT

Expedited Bill 22-21, Eating and Drinking Establishments - Itinerant Food Service Facilities - Amendments

Lead Sponsor: Councilmember Katz

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

DESCRIPTION/ISSUE

Expedited Bill 22-21 would allow Itinerant Food Service Facilities to operate for up to 30 days. It would also change the term from "Itinerant Food Service Facilities" to "Temporary Food Service Facilities."

SUMMARY OF KEY DISCUSSION POINTS

- Currently, the County Code defines an Itinerant Food Service Facility as one that operates for a temporary period at a fixed location, not exceeding 14 days.
- State law allows a period of not more than 30 consecutive days.
- Expedited Bill 22-21 would amend the County Code to conform with State law, allowing itinerant food service facilities to operate for up to 30 days.
- Expedited Bill 22-21 would also change the term "itinerant food service facility" to "temporary food service facility".

This report contains:

Staff Report

Expedited Bill 22-21

Legislative Request Report

Pages 1-2

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MEMORANDUM

June 24, 2021

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Expedited Bill 22-21, Eating and Drinking Establishments – Itinerant Food Service Facilities – Amendments

PURPOSE: Public hearing and action – Council vote expected

Expedited Bill 22-21, Eating and Drinking Establishments – Itinerant Food Service Facilities – Amendments, lead sponsor Councilmember Katz, was introduced on June 15, 2021. Public hearing and final reading are scheduled for June 29, 2021.

The County Code, Sec. 15-1(i), defines an “Itinerant food service facility” as:

A food service facility operating for a temporary period at a fixed location, not exceeding 14 days, at a fair, carnival, public exhibition, construction project, recreational facility or similar gathering.

State law, Md. HEALTH-GENERAL Code Ann. §21-309(a)(4) uses the term “Temporary food service facility” and defines it as:

a food service facility which operates during a period of time of not more than 30 consecutive days at a fixed location in conjunction with a fair, carnival, public exhibition, construction project, recreational facility, or similar gathering.

Expedited Bill 22-21 would amend the County Code to conform with current State law by allowing an itinerant food service facility to operate for up to 30 days.

Proposed Amendment

The County Code uses the term “itinerant food service facility.” However, the definition includes both fixed locations and mobile units. Since “itinerant” means “moving from place to place” (Merriam-Webster

Dictionary, 2020), the proposed amendment would change the term in the County Code to “temporary food service facility.”

State law has two separate definitions for “mobile food service facility” and “temporary food service facility.” The amendment to the County Code would put both fixed and itinerant food service facilities under the term temporary food service facility. Those food service facilities are then divided into various Classes based on whether the facility is fixed or mobile and based on the food preparation and sale.

Each ~~[[itinerant]]~~ temporary food service facility belongs to one of 4 classes:

Class I: A food service facility operating from a fixed location or a mobile unit which handles, serves, or sells only sealed and prewrapped or prepackaged food or drink in the original sealed container or wrapping, and which does not prepare, wrap, or package any food or drink on the premises or within the mobile unit.

Class II: A food service facility operating from a fixed location, which handles, serves, or sells any food or drink, other than in sealed containers or wrappings, or which prepares, packages, or wraps any food or drink on the premises.

Class III: A food service facility operating from a mobile unit which handles or sells any food or drink other than in sealed containers or wrappings, or which prepares, packages, or wraps any food or drink within the mobile unit.

Class IV: A food service facility operating from a mobile unit which handles or sells sealed, prewrapped, or prepackaged food or drink in the original sealed container or wrapping, and does not prepare, wrap, or package any food or drink within the mobile unit except coffee or tea.

Impact Statements

The Office of Legislative Oversight (OLO) will submit its Economic Impact Statement and Racial Equity and Social Justice Impact Statement in an addendum to this packet.

This packet contains:

Expedited Bill 22-21

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Legislative Request Report

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Expedited Bill No. 22-21
Concerning: Eating and Drinking
Establishments - Itinerant Food
Service Facilities - Amendments
Revised: 6/24/2021 Draft No. 2
Introduced: June 15, 2021
Expires: December 15, 2022
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Katz

AN EXPEDITED ACT to:

- (1) allow an itinerant food service facility to operate for a temporary period not to exceed 30 days; and
- (2) generally amend the definition of an itinerant food service facility.

By amending

Montgomery County Code
Chapter 15, Eating and Drinking Establishments
Section 15-1
Section 15-8
Section 15-10
Chapter 47, Vendors
Section 47-1

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 15-1 is amended as follows:**

2 **15-1. Definitions.**

3 In this Chapter, the following words and phrases have the following meanings:

4 * * *

5 (i) [[*Itinerant*]] Temporary food service facility:

6 (1) A food service facility operating for a temporary period at a fixed
7 location, not exceeding [14] 30 days, at a fair, carnival, public
8 exhibition, construction project, recreational facility or similar
9 gathering; or

10 (2) Any other food service facility which travels from place to place.

11 Each [[*itinerant*]] temporary food service facility belongs to one of 4
12 classes:

13 Class I: A food service facility operating from a fixed location or a mobile
14 unit which handles, serves, or sells only sealed and prewrapped or
15 prepackaged food or drink in the original sealed container or wrapping,
16 and which does not prepare, wrap, or package any food or drink on the
17 premises or within the mobile unit.

18 Class II: A food service facility operating from a fixed location, which
19 handles, serves, or sells any food or drink, other than in sealed containers
20 or wrappings, or which prepares, packages, or wraps any food or drink
21 on the premises.

22 Class III: A food service facility operating from a mobile unit which
23 handles or sells any food or drink other than in sealed containers or
24 wrappings, or which prepares, packages, or wraps any food or drink
25 within the mobile unit.

26 Class IV: A food service facility operating from a mobile unit which
 27 handles or sells sealed, prewrapped, or prepackaged food or drink in the
 28 original sealed container or wrapping, and does not prepare, wrap, or
 29 package any food or drink within the mobile unit except coffee or tea.

- 30 (j) *License*: A document authorizing a food service facility or ~~[[an itinerant]]~~
 31 a temporary food service facility to operate in the County.

32 * * *

33 **Sec. 2. Section 15-8 is amended as follows:**

34 **15-8. License required; ~~[[exceptions]]~~ exemptions; certified manager required.**

- 35 (a) A person must not operate a food service facility or ~~[[an itinerant]]~~ a
 36 temporary food service facility without a valid license from the director.

37 A separate license is required for each food service facility or itinerant
 38 food service facility.

- 39 (b) (1) After January 15, 1989, a licensee must not operate a food service
 40 facility unless at least one employee is a certified food service
 41 manager, or is taking a course that will train the employee to be a
 42 certified food service manager.

- 43 (2) After July 15, 1989, a licensee must not operate a food service
 44 facility unless the facility is under the immediate control of a
 45 certified food service manager.

- 46 (3) This requirement does not apply to:

47 (A) A food service facility where no unwrapped food is handled;

48 or

49 (B) A seasonal food service facility in which little or no
 50 potentially hazardous food is prepared, handled or served.

- 51 (4) This requirement may be applied to ~~[[an itinerant]]~~ a temporary
 52 food service facility at the discretion of the director.

53 (5) The director may postpone or waive this requirement if in unusual
54 circumstances its application to a particular licensee would result
55 in undue hardship.

56 * * *

57 **Sec. 3. Section 15-10 is amended as follows:**

58 **15-10. Application.**

59 Any person desiring to operate a food service facility or ~~[[itinerant]]~~ temporary
60 food service facility must apply to the director for a license to operate the
61 facility. Each application must be in the form prescribed by the director.

62 * * *

63 **Sec. 4. Section 47-1 is amended as follows:**

64 **47-1. Definitions.**

65 In this Chapter, the following words have the meanings indicated:

66 * * *

67 Food service truck means ~~[[an itinerant]]~~ a temporary food service facility,
68 licensed under Chapter 15, operating from a self-propelled motorized vehicle
69 that is parked or temporarily located where food items are sold from the truck
70 to the general public.

71 * * *

72 **Sec. ~~[[2]]~~ 5. Expedited Effective Date.**

73 The Council declares that this legislation is necessary for the immediate
74 protection of the public interest. This Act takes effect on the date on which it becomes
75 law.

76 *Approved:*

77

Tom Hucker, President, County Council

Date

78 *Approved:*

79

Marc Elrich, County Executive

Date

80 *This is a correct copy of Council action.*

81

Selena Mendy Singleton, Esq., Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 22-21

Eating and Drinking Establishments - Itinerant Food Service Facilities - Amendments

DESCRIPTION:	EB 22-21 would: (1) allow an itinerant food service facility to operate for a temporary period not to exceed 30 days; and (2) generally amend the definition of an itinerant food service facility.
PROBLEM:	Itinerant Food Service Facilities may only operate for 14 days.
GOALS AND OBJECTIVES:	State law allows temporary food service facilities to operate for 30 consecutive days. This expedited bill will align County Code with State Code.
COORDINATION:	Montgomery County Health and Human Services
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Livhu Ndou, Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	Class A Violation.