



**Committee:** Joint  
**Committee Review:** At a future date  
**Staff:** Christine Wellons, Senior Legislative Attorney  
**Purpose:** To introduce agenda item – no vote expected

AGENDA ITEMS #2B&3.5A  
November 14, 2023  
**Introduction**

## **SUBJECT**

Bill 42-23, Health and Sanitation – Menstrual Products in Public Restrooms – Required

Resolution to adopt Bill 42-23 – Health and Sanitation – Menstrual Products in Public Restrooms – Required as a Board of Health Regulation

Lead Sponsor: Councilmember Jawando

## **EXPECTED ATTENDEES**

None

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

- N/A

## **DESCRIPTION/ISSUE**

Bill 42-23 would:

- (1) require places of public accommodation to provide menstrual products in certain public restrooms at no charge to users; and
- (2) generally amend the law regarding the provision of necessary health and sanitary products.

The Board of Health resolution would adopt the requirements of the bill as a Board of Health regulation.

## **SUMMARY OF KEY DISCUSSION POINTS**

N/A

## **This report contains:**

Staff Report	Pages 1-3
Bill 42-23	© 1
Resolution - Board of Health Regulation	© 4

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**MEMORANDUM**

November 9, 2023

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Bill 42-23, Health and Sanitation – Menstrual Products in Public Restrooms – Required  
Resolution to adopt Bill 42-23 – Health and Sanitation – Menstrual Products in Public Restrooms – Required as a Board of Health Regulation

PURPOSE: Introduction – no Council votes required

Bill 42-23 Health and Sanitation – Menstrual Products in Public Restrooms – Required, sponsored by Lead Sponsor Councilmember Jawando, is scheduled for introduction on November 14, 2023. A companion resolution, introduced by Councilmember Jawando, would adopt the provisions of the bill as a Board of Health resolution.

Public hearings on the bill and the resolution are tentatively scheduled for December 5, 2023 and a joint HHS/ ECON Committee worksession will be scheduled at a later date.

Bill 42-23 would:

- (1) require places of public accommodation to provide menstrual products in certain public restrooms at no charge to users; and
- (2) generally amend the law regarding the provision of necessary health and sanitary products.

**BACKGROUND**

In 2021, the General Assembly amended the Education Article of the Maryland Code to require public schools to install menstrual hygiene product dispensers in certain restrooms for students. *See* Md. Code Ann., Education Article § 7-449. Maryland law also requires that incarcerated individuals have access to free menstrual supplies. *See* Correctional Services Article § 9-616. In addition, Maryland exempts from the sales tax: “sanitary pads, tampons, menstrual sponges, menstrual cups, or other similar feminine hygiene products”. Tax-General Article § 11-211.

According to the ACLU, a number of states, like Maryland, have passed laws to require the provision of menstrual products in public schools and prisons, and to eliminate sales taxes on menstrual products. See [111219-sj-periodequity.pdf \(aclu.org\)](https://www.aclu.org/document/111219-sj-periodequity.pdf)

### **BILL DESCRIPTION**

Bill 42-23 would apply only to a subset of places of public accommodation that, by law, are required to provide restroom facilities to their customers or the general public (e.g., restaurants). The subset of public accommodation would be required to provide access to free menstrual products in their restrooms.

The bill would define a place of public accommodation as having the same meaning as stated under Section 27-10. That definition includes:

- (1) restaurants, soda fountains, and other eating or drinking places, and all places where food is sold for consumption either on or off the premises;
- (2) inns, hotels, and motels, whether serving temporary or permanent patrons;
- (3) retail stores and service establishments;
- (4) hospitals, health care institutions, domiciliary care homes, nursing homes, personal care homes, and clinics;
- (5) motion picture, stage, and other theaters and music, concert, or meeting halls;
- (6) circuses, exhibitions, skating rinks, sports arenas and fields, amusement or recreation parks, picnic grounds, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool rooms, and swimming pools;
- (7) public conveyances, such as automobiles, buses, taxicabs, trolleys, trains, limousines, boats, airplanes, and bicycles;
- (8) utilities, such as water and sewer service, electricity, telephone, and cable television;
- (9) streets, roads, sidewalks, other public rights-of-way, parking lots or garages, marinas, airports, and hangars; and
- (10) places of public assembly and entertainment of every kind.

A violation of the bill's requirements would be a Class A violation, enforceable by the Department of Health and Human Services.

### **BOARD OF HEALTH RESOLUTION**

The resolution would incorporate the provisions of the bill into a Board of Health regulation, which applies Countywide.

This packet contains:

Bill 42-23

Resolution – BOH Regulation

Circle #

© 1

© 4

Bill No. 42-23  
Concerning: Health and Sanitation –  
Menstrual Products in Public  
Restrooms - Required  
Revised: 11/03/2023 Draft No. 3  
Introduced: November 14, 2023  
Expires: December 7, 2026  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Jawando

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**AN ACT** to:

- (1) require places of public accommodation to provide menstrual products in certain public restrooms at no charge to users; and
- (2) generally amend the law regarding the provision of necessary health and sanitary products.

By adding

Montgomery County Code  
Chapter 24, Health and Sanitation  
Section 24-8E

<b>Boldface</b>	<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 24-8E is added as follows:**

2    **24-8E. Provision of menstrual products in public restrooms – Required.**

3           (a)   Title. This Section is known as the “Menstrual Products Access and  
 4               Equity Act”.

5           (b)   Definitions. In this Section, the following terms have the meanings  
 6               indicated.

7               (1)   Menstrual products mean tampons or sanitary napkins for use in  
 8               connection with the menstrual cycle.

9               (2)   Place of public accommodation has the meaning stated in Section  
 10              27-10.

11              (3)   Public restroom means a permanent structure or facility that:

12                   (A)   contains one or more toilets and sinks;

13                   (B)   is located within a place of public accommodation; and

14                   (C)   by law, must be made available by the place of public  
 15                   accommodation to its customers or to other members of the  
 16                   public.

17           (c)   A place of public accommodation must provide, at no cost to users,  
 18               menstrual products in each public restroom.

19           (d)   Enforcement and Penalties.

20              (1)   Enforcement. The requirements of this Section may be enforced  
 21               by:

22                   (A)   the Director of the Department of Health and Human  
 23                   Services, or the Director’s designee; and

24                   (B)   the County Health Officer, or the Health Officer’s  
 25                   designee.

26              (2)   A violation of this Section is a Class A violation.

27

**Sec. 2. Effective date.** This Act must take effect 6 months after it becomes law.

Resolution No.: \_\_\_\_\_  
Introduced: November 14, 2023  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH**

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Lead Sponsor: Councilmember Jawando

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**SUBJECT:** Resolution to adopt Bill xx-23, Health and Sanitation – Menstrual Products in Public Restrooms - Required as a Board of Health Regulation.

**Background**

1. County Code §2-65, as amended, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202 authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. On \_\_\_\_\_, the Council held a public hearing on this regulation. As required by law, each municipality in the County and the public were properly notified of this hearing.
4. On \_\_\_\_\_, the County Council enacted Bill xx-23, Health and Sanitation – Menstrual Products in Public Restrooms - Required. Bill xx-23 requires the provision of menstrual products in public restrooms by places of public accommodation.
5. The County Council, sitting as the Board of Health, finds after reviewing the evidence in the record that requiring the provision of menstrual products in public restrooms as required by this Regulation is necessary to protect the health of County residents.



**Action**

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, approves the following resolution:

1. The provisions of Section 24-8E of the Montgomery County Code, entitled “Provision of menstrual products in public restrooms - Required.”, as added by Bill xx-23, Health and Sanitation – Menstrual Products in Public Restrooms – Required, are adopted as a Board of Health regulation. A copy of Bill xx-23 is attached to this resolution.
2. This resolution takes effect on the effective date of Bill xx-23.

This is a correct copy of Council action.

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Sara R. Tenenbaum  
Clerk of the Council