

# Chapter 399

(House Bill 841)

AN ACT concerning

## **Food Service Facilities – Open Windows and Doors – ~~Regulations~~**

FOR the purpose of ~~requiring the Department of Health and Mental Hygiene, on or before a certain date, to adopt certain regulations that allow a food service facility to operate with the outer windows or outer doors of the facility open if a certain determination is made by a certain local health department;~~ authorizing a food service facility to operate with the outer doors or outer windows of the facility open unless the local health department finds evidence of certain vermin or flying insects while the facility is operating with the outer doors or outer windows open; requiring a food service facility to take certain actions under certain circumstances; authorizing a local health department to take certain actions under certain circumstances; providing for the application of this Act; and generally relating to ~~regulations for~~ open windows and doors at food service facilities.

BY adding to

Article – Health – General

Section 21–324.1

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article – Health – General**

#### **21–324.1.**

~~ON OR BEFORE JANUARY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS THAT ALLOW FOOD SERVICE FACILITIES TO OPERATE WITH THE OUTER WINDOWS OR OUTER DOORS OF THE FACILITY OPEN FOR VENTILATION OR OTHER PURPOSES IF THE LOCAL HEALTH DEPARTMENT DETERMINES THAT THERE IS NO EVIDENCE OF INFESTATION BY FLYING INSECTS OR OTHER VERMIN THAT COULD CREATE AN IMMINENT THREAT TO THE PUBLIC HEALTH AT THE FACILITY.~~

(A) THIS SECTION DOES NOT APPLY TO AN OUTER DOOR OF A FOOD SERVICE FACILITY THAT LEADS FROM THE KITCHEN TO THE OUTSIDE.

**(B) A FOOD SERVICE FACILITY MAY OPERATE WITH THE OUTER WINDOWS OR OUTER DOORS OPEN UNLESS, WHILE THE FOOD SERVICE FACILITY IS OPERATING WITH THE OUTER DOORS OR OUTER WINDOWS OPEN, THE LOCAL HEALTH DEPARTMENT:**

**(1) FINDS EVIDENCE OF VERMIN IN FOOD PREPARATION OR FOOD STORAGE AREAS; OR**

**(2) FINDS EVIDENCE OF FLYING INSECTS IN FOOD PREPARATION OR FOOD STORAGE AREAS THAT POSE A SIGNIFICANT THREAT TO SANITATION OR PUBLIC HEALTH.**

**(C) IF A LOCAL HEALTH DEPARTMENT FINDS THAT A FOOD SERVICE FACILITY IS OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS SECTION, THE FOOD SERVICE FACILITY SHALL TAKE IMMEDIATE ACTION TO ELIMINATE THE VERMIN OR FLYING INSECTS.**

**(D) A LOCAL HEALTH DEPARTMENT MAY CLOSE A FOOD SERVICE FACILITY FOUND TO BE OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS SECTION, OR ORDER A TEMPORARY CLOSURE OF THE OUTER WINDOWS AND OUTER DOORS AT THE FOOD SERVICE FACILITY, UNTIL THE VERMIN OR FLYING INSECTS ARE ELIMINATED FROM THE FOOD PREPARATION OR FOOD STORAGE AREAS, OR UNTIL ANOTHER ACTION APPROVED BY THE LOCAL HEALTH DEPARTMENT IS TAKEN.**

**(E) A FOOD SERVICE FACILITY FOUND TO BE OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS SECTION ON THREE OR MORE SEPARATE OCCASIONS SHALL KEEP THE OUTER WINDOWS AND OUTER DOORS CLOSED AT ALL TIMES UNTIL:**

**(1) MODIFICATIONS APPROVED BY THE LOCAL HEALTH DEPARTMENT ARE MADE TO THE FOOD SERVICE FACILITY TO EFFECTIVELY PROTECT AGAINST THE ENTRANCE OF VERMIN AND FLYING INSECTS; OR**

**(2) ANOTHER ACTION APPROVED BY THE LOCAL HEALTH DEPARTMENT IS TAKEN.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2012.

Approved by the Governor, May 2, 2012.