

# SENATE BILL 602

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CF 6lr1491

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By: **Senators Conway, Benson, and Pugh**  
Introduced and read first time: February 5, 2016  
Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Healthy Vending Machine Act**

3 FOR the purpose of requiring a certain percentage of packaged food and beverage options  
4 offered in a food and beverage vending machine located on property owned or  
5 managed by the State to be healthy food and beverage options; providing that certain  
6 packaged food and beverage options may not contain more than a certain amount of  
7 trans fat or a certain amount of sodium; requiring certain healthy food or beverage  
8 options to be displayed and stocked in a certain manner; requiring a vending  
9 machine operator to post a certain sign in a certain manner under certain  
10 circumstances; providing that a healthy beverage option may not contain more than  
11 a certain number of calories; providing that certain beverages are considered a  
12 healthy beverage option; establishing the requirements that must be met to be  
13 considered a healthy food option; providing that certain foods are considered healthy  
14 food options; requiring the Department of Health and Mental Hygiene, on or before  
15 a certain date and with a certain frequency, to review and, if necessary, revise and  
16 update certain requirements; requiring the Department to enforce this Act;  
17 authorizing the Department to conduct certain inspections and receive certain  
18 reports; requiring the Department to disseminate certain information and conduct  
19 certain training; requiring the Department, on or before a certain date and with a  
20 certain frequency, to issue a certain report to the Governor and the General  
21 Assembly; establishing certain penalties; providing for the application of this Act;  
22 requiring this Act to be implemented in accordance with certain laws; requiring the  
23 Department to encourage certain tenants to meet the requirements of this Act under  
24 certain circumstances; providing for the construction of this Act; defining certain  
25 terms; and generally relating to the Maryland Healthy Vending Machine Act.

26 BY adding to  
27 Article – Health – General  
28 Section 21–501 through 21–509 to be under the new subtitle “Subtitle 5. Maryland  
29 Healthy Vending Machine Act”  
30 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2015 Replacement Volume)

Preamble

WHEREAS, By 2018, diseases caused by poor nutrition likely will cost Maryland's health care system at least \$7.6 billion in direct medical costs alone, half of which will be publicly funded; and

WHEREAS, Approximately 81,000 individuals are employed by the State, and reducing the impact of diet-related diseases will support a more productive and valuable workforce that will pay dividends to the State economy and cultivate national competitiveness for State residents and employees; and

WHEREAS, Maryland spends more than \$700 million each year to fund its employee health benefits program, and reducing chronic diseases through improvements to the State's food environment may help improve employee health and reduce taxpayer costs; and

WHEREAS, According to the Centers for Disease Control and Prevention, small steps, like making healthier food and beverages more widely available in vending machines, can help reduce Type 2 diabetes, obesity, and other chronic diseases; and

WHEREAS, Positive changes in the nutritional quality of food and beverages sold or provided by the State or on public property will assist individuals to make healthier choices; and

WHEREAS, State properties on which facilities that provide care for dependent adults and children are located are visited by many State residents and other visitors; now, therefore,

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

**Article – Health – General**

**SUBTITLE 5. MARYLAND HEALTHY VENDING MACHINE ACT.**

**21-501.**

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "FOOD AND BEVERAGE VENDING MACHINE" MEANS A SELF-SERVICE MACHINE OFFERED FOR PUBLIC USE THAT, ON INSERTION OF A COIN, PAPER CURRENCY, TOKEN, CARD, OR KEY, OR BY OPTIONAL MANUAL OPERATION, DISPENSES SERVINGS OF FOOD OR BEVERAGES IN BULK OR IN PACKAGES, OR

1 PREPARED BY THE MACHINE, WITHOUT THE NECESSITY OF REPLENISHING THE  
2 DEVICE BETWEEN EACH VENDED OPERATION.

3 (C) "PACKAGED" MEANS BOTTLED, CANNED, SECURELY BAGGED, OR  
4 SECURELY WRAPPED, WHETHER PACKAGED IN A FOOD ESTABLISHMENT OR A FOOD  
5 PROCESSING PLANT.

6 (D) "HEALTHY FOOD OR BEVERAGE OPTION" MEANS A PACKAGED FOOD OR  
7 BEVERAGE THAT MEETS THE REQUIREMENTS TO BE A HEALTHY FOOD OPTION OR A  
8 HEALTHY BEVERAGE OPTION ESTABLISHED IN § 21-504 OF THIS SUBTITLE.

9 21-502.

10 (A) THIS SUBTITLE APPLIES TO FOOD AND BEVERAGES SOLD THROUGH  
11 FOOD AND BEVERAGE VENDING MACHINES LOCATED ON PROPERTY OWNED OR  
12 MANAGED BY THE STATE, INCLUDING:

13 (1) STATE GOVERNMENT OFFICE BUILDINGS;

14 (2) ROADSIDE REST STOPS OWNED OR MANAGED BY THE STATE;

15 (3) STATE PARKS AND RECREATION CENTERS; AND

16 (4) STATE COLLEGES AND UNIVERSITIES.

17 (B) THIS SUBTITLE SHALL BE IMPLEMENTED IN ACCORDANCE WITH  
18 FEDERAL, STATE, AND LOCAL LAWS.

19 (C) IF A FOOD AND BEVERAGE VENDING MACHINE IS LOCATED ON STATE  
20 PROPERTY THAT HAS BEEN LEASED TO A PRIVATE ENTITY, THE DEPARTMENT SHALL  
21 ENCOURAGE THE TENANT TO MEET THE REQUIREMENTS OF THIS SUBTITLE.

22 21-503.

23 (A) (1) AT LEAST 75% OF THE PACKAGED FOOD AND BEVERAGE OPTIONS  
24 OFFERED IN A FOOD AND BEVERAGE VENDING MACHINE SHALL BE HEALTHY FOOD  
25 OR BEVERAGE OPTIONS.

26 (2) ANY PACKAGED FOOD AND BEVERAGE OPTION OFFERED IN A  
27 FOOD AND BEVERAGE VENDING MACHINE SHALL CONTAIN NO MORE THAN:

28 (I) .5 GRAMS OF TRANS FAT PER SERVING; AND

1                   **(II) 200 MILLIGRAMS OF SODIUM PER PACKAGE.**

2           **(B) A HEALTHY FOOD OR BEVERAGE OPTION OFFERED FOR SALE IN A FOOD**  
3 **AND BEVERAGE VENDING MACHINE SHALL BE DISPLAYED IN A WAY THAT IS EASILY**  
4 **VISIBLE AND DISTINGUISHABLE FROM FOODS AND BEVERAGES THAT ARE NOT**  
5 **CONSIDERED HEALTHY FOOD OR BEVERAGE OPTIONS.**

6           **(C) A HEALTHY FOOD OR BEVERAGE OPTION SHALL BE STOCKED IN A**  
7 **POSITION WITH THE HIGHEST SELLING POTENTIAL.**

8           **(D) AN OPERATOR OF A FOOD AND BEVERAGE VENDING MACHINE SHALL**  
9 **POST A SIGN IN CLOSE PROXIMITY TO EACH FOOD OR BEVERAGE OPTION OR THE**  
10 **SELECTION BUTTON FOR THE FOOD OR BEVERAGE OPTION THAT INCLUDES A CLEAR**  
11 **AND CONSPICUOUS STATEMENT DISCLOSING THE NUMBER OF CALORIES**  
12 **CONTAINED IN THE FOOD OR BEVERAGE OPTION IF A FOOD OR BEVERAGE OPTION**  
13 **SOLD FROM THE VENDING MACHINE:**

14                   **(1) IS PACKAGED IN A WAY THAT DOES NOT ALLOW THE PROSPECTIVE**  
15 **PURCHASER TO EXAMINE THE NUTRITION FACTS PANEL BEFORE PURCHASING THE**  
16 **FOOD OR BEVERAGE; OR**

17                   **(2) DOES NOT OTHERWISE PROVIDE VISIBLE NUTRITION**  
18 **INFORMATION AT THE POINT OF PURCHASE.**

19 **21-504.**

20           **(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**  
21 **HEALTHY BEVERAGE OPTION MAY NOT CONTAIN MORE THAN 40 CALORIES PER**  
22 **PACKAGE.**

23                   **(2) THE FOLLOWING BEVERAGES ARE CONSIDERED A HEALTHY**  
24 **BEVERAGE OPTION:**

25                           **(I) FAT FREE MILK;**

26                           **(II) 1% LOW FAT DAIRY MILK;**

27                           **(III) CALCIUM OR VITAMIN D FORTIFIED SOY MILK WITH LESS**  
28 **THAN 200 CALORIES PER CONTAINER; AND**

29                           **(IV) PACKAGES CONTAINING 12 OUNCES OR LESS OF 100%**  
30 **FRUIT JUICE, VEGETABLE JUICE, OR FRUIT JUICE COMBINED WITH WATER, WITH NO**

1 ADDED CALORIC SWEETENERS AND NO MORE THAN 200 MILLIGRAMS OF SODIUM  
2 PER CONTAINER.

3 (B) (1) A HEALTHY FOOD OPTION SHALL CONTAIN:

4 (I) NO MORE THAN 200 CALORIES PER PACKAGE;

5 (II) NO MORE THAN .5 GRAMS OF TRANS FAT PER SERVING;

6 (III) LESS THAN 35% OF CALORIES FROM FAT, EXCEPT FOR  
7 FOODS CONTAINING 100% NUTS OR SEEDS;

8 (IV) LESS THAN 10% OF CALORIES FROM SATURATED FAT;

9 (V) NO MORE THAN 35% OF CALORIES FROM TOTAL SUGARS,  
10 EXCEPT FOR 1% OR 2% FAT OR NONFAT DAIRY PRODUCTS, NONDAIRY MILK  
11 PRODUCTS, FRUITS, AND VEGETABLES; AND

12 (VI) NO MORE THAN 200 MILLIGRAMS OF SODIUM PER PACKAGE.

13 (2) SUGARLESS CHEWING GUM AND MINTS ARE CONSIDERED A  
14 HEALTHY FOOD OPTION.

15 21-505.

16 ON OR BEFORE OCTOBER 1, 2021, AND EVERY 5 YEARS THEREAFTER, THE  
17 DEPARTMENT SHALL REVIEW AND, IF NECESSARY, REVISE AND UPDATE THE  
18 REQUIREMENTS FOR HEALTHY FOOD OPTIONS AND HEALTHY BEVERAGE OPTIONS  
19 ESTABLISHED IN § 21-504 OF THIS SUBTITLE TO REFLECT ADVANCEMENTS IN  
20 NUTRITION SCIENCE, DIETARY DATA, AND PRODUCT AVAILABILITY.

21 21-506.

22 (A) THE DEPARTMENT SHALL ENFORCE THIS SUBTITLE.

23 (B) TO ENFORCE THIS SUBTITLE, THE DEPARTMENT MAY:

24 (1) INSPECT FOOD AND BEVERAGE VENDING MACHINES THAT ARE  
25 SUBJECT TO THIS SUBTITLE; AND

26 (2) RECEIVE REPORTS FROM PERSONS REGARDING POTENTIAL  
27 NONCOMPLIANCE WITH THIS SUBTITLE.

1 (C) THE DEPARTMENT SHALL DISSEMINATE INFORMATION AND CONDUCT  
2 TRAININGS ON THE REQUIREMENTS OF THIS SUBTITLE.

3 21-507.

4 ON OR BEFORE OCTOBER 1, 2018, AND EVERY 2 YEARS THEREAFTER, THE  
5 DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §  
6 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

7 (1) THE IMPLEMENTATION OF THIS SUBTITLE, INCLUDING  
8 SUCCESSES, CHALLENGES, AND BARRIERS;

9 (2) AN ASSESSMENT OF THE COMPLIANCE OF FOOD AND BEVERAGE  
10 VENDING MACHINE OPERATORS WITH THIS SUBTITLE; AND

11 (3) RECOMMENDATIONS FOR IMPROVING THE HEALTHY FOOD OR  
12 BEVERAGE OPTION STANDARDS AND FOOD AND BEVERAGE VENDING MACHINE  
13 OPERATOR COMPLIANCE, IF NECESSARY.

14 21-508.

15 (A) A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO:

16 (1) FOR A FIRST VIOLATION, A CIVIL FINE OF NO LESS THAN \$100  
17 PAID BY THE FOOD AND BEVERAGE VENDING MACHINE OPERATOR; AND

18 (2) FOR EACH SUBSEQUENT VIOLATION, A CIVIL FINE OF NOT LESS  
19 THAN \$500 PAID BY THE FOOD AND BEVERAGE VENDING MACHINE OPERATOR.

20 (B) A PERSON WHO COMMITS FIVE OR MORE VIOLATIONS WITHIN A  
21 6-MONTH PERIOD:

22 (1) MAY NOT OPERATE A FOOD AND BEVERAGE VENDING MACHINE  
23 ON STATE PROPERTY; AND

24 (2) IS SUBJECT TO A CIVIL FINE OF NOT LESS THAN \$1,000.

25 21-509.

26 THIS SUBTITLE MAY NOT BE CONSTRUED TO REQUIRE A UNIT OF STATE  
27 GOVERNMENT TO PLACE A FOOD AND BEVERAGE VENDING MACHINE ON STATE  
28 PROPERTY.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2016.