

Department of Health and Mental Hygiene
Nelson J. Sabatini Secretary
Community Health Administration
Diane Matuszak M.D. M.P.H. Director
Office of Food Protection and Consumer Health Services
Alan L. Taylor, Director



Interpretative Memorandum

To: Local Environmental Health Directors

From: Alan L. Taylor

Re: Bed & Breakfast Establishments.

Date: September 28, 2004

House Bill 312 and its companion Senate Bill 839 adopted during the 2004 Legislative Session, provide new laws for bed and breakfast establishments and the manner in which the Department regulates these facilities. The new requirements effective October 1, 2004 are as follows:

1. A “Bed and Breakfast Establishment” is defined as meaning a lodging or rooming house, as defined in §9-201 of the Public Safety article, having eight (8) or less rooms for rent.
2. Bed and breakfast establishments are exempt from any food service regulations, adopted by the State Department of Health and Mental Hygiene or a local government health department, that relate to the construction or installation of commercial grade kitchen equipment in such an establishment.
3. Each bed and breakfast establishment that intends to serve hot meals to renters must be licensed in accordance with Md. Code Ann., Health-General Article, § 21-305 and is subject to State and local health regulations that govern food safety and contamination.
4. In each local jurisdiction the Local Health Officer is required to inspect each bed and breakfast establishment that intends to serve hot meals to renters to ensure compliance with food safety and contamination regulations in accordance with Md. Code Ann., Health-General Article, § 21-313.

Based on the new law, the Office of Food Protection and Consumer Health Services has made the following interpretations:

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- a) A lodging or rooming house with nine (9) or more rooms for rent can no longer be classified as a bed and breakfast and is subject to all relevant regulations in the Code of Maryland Regulations (COMAR) 10.15.03 "Food Service Facilities."
- b) A bed and breakfast establishment need not install commercial grade kitchen equipment even when replacing commercial equipment but can do so if they so desire.
- c) When a bed and breakfast establishment is not specifically restricting its operation, in writing, to cold meals only, the Department considers this to be an intent to serve hot meals and therefore the establishment must be licensed and inspected by the local health department.
- d) The serving of hot beverages and toasted bread products is not considered as serving a hot meal.
- e) There is no restriction on the number of hot meals a bed and breakfast establishment can serve each day.
- f) A licensed and inspected bed and breakfast establishment is restricted to serving hot meals to renters and cannot operate as a restaurant or caterer to the general public.
- g) A bed and breakfast establishment must comply with the following sections of COMAR 10.15.03: .01-03; .04A, B(1-5), C-E, G; .05; .06A(1)(b)(c), B(1)(a)-(d), B(2)(a)(b),; .07A(1)(a)(b), A(3), B, D, E(1)(a)(c), E(2), F(1)(a)(b), F(2)(a)-(c), G(1); .08A(1)(a), A(2)(a), E(1)(a)(b), E(2)-(4) and .12-.24.

As a result of the new law and this guidance, this Office requests that each local health department evaluate its current way of regulating bed and breakfast operations, lodging, and rooming houses and make the necessary changes to comply with the law and this interpretation. This memorandum is being issued for interim guidance. The above changes in law are being incorporated in the current revision of the Code of Maryland Regulation 10.15.03.