

**MEMORANDUM**

July 10, 2015

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Public Hearing:** Bill 32-15, Vendors – Hours and Places of Operation

Bill 32-15, Vendors – Hours and Places of Operation, sponsored by Lead Sponsors Councilmembers Riemer and Navarro, and Co-Sponsors Council Vice President Floreen, Council President Leventhal, Councilmembers Katz, Rice and Elrich was introduced on June 16, 2015. A Planning, Housing and Economic Development Committee worksession will be scheduled at a later date.

Bill 32-15 would define “food service truck” and provide that vendors operating food service trucks may conduct business from 5:00 a.m. to 10:00 p.m. Currently, food truck operators are subject to the same allowed hours of operation as all other vendors under section 47-2(d):

Except for a prearranged appointment or with the Director's approval, a vendor must not conduct business before 9 a.m. nor after sunset. In this Section, "sunset" means the time established by the U.S. Naval Observatory for Washington D.C. and vicinity.

**Background**

The idea for this Bill originated in the Wheaton High School Innovation Lab, where students learn project management skills via a curriculum developed by Chief Innovation Officer Dan Hoffman, in partnership with MCPS. Students in the Innovation Lab select the projects they work on with guidance from the Chief Innovation Officer and a co-teacher at Wheaton High School, and use their skills to test out new ideas outside of the classroom. In the past, students have worked on projects with social media start-ups and developed new curriculum. In this case, they are addressing a challenge faced by small businesses - specifically food truck operators - in the County. They have engaged with the Chambers of Commerce, food truck operators and the Department of Permitting services to gather information and develop a solution that they feel will allow food truck operators to better serve the growing market for their product.

The students recognized that the current law restricts food truck operators to serving only lunch during the winter months, and largely precludes them from serving breakfast at all. They also recognized that the reliance on “sunset” as limit on evening operation created some confusion. To solve this problem, they recommended extending the operating hours for food trucks, both in the morning and the evening, to the specific times of 5:00 a.m. and 10:00 p.m. respectively. The solution embodied in this Bill was formulated by students based on their research and perspective, and not at the request of any of the various parties with whom they have consulted.

This Bill will be part of a pilot program of a new Council open government initiative, in partnership with the OpenGov Foundation.<sup>1</sup> As part of the Council’s consideration of the Bill, it will be posted on <https://montgomerycountymd.mymadison.io/> for review, comment and suggested changes by members of the public. This tool expands upon other recent steps taken by the Council to increase the amount of on-line information available to the public and increase public awareness and participation in the legislative process. The Council will evaluate the effectiveness the tool based on its experience with Bill 32-15.

This packet contains:	<u>Circle #</u>
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<sup>1</sup> <http://opengovfoundation.org/the-madison-project/>

Bill No. 32-15  
Concerning: Vendors – Hours and  
Places of Operation  
Revised: 04/07/2015 Draft No. 1  
Introduced: June 16, 2015  
Expires: December 16, 2016  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsors: Councilmembers Riemer and Navarro  
Co-Sponsors: Council Vice President Floreen, Council President Leventhal, Councilmembers Katz,  
Rice and Elrich

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**AN ACT** to:

- (1) amend the hours of operation allowed for vendors operating food service trucks;  
and
- (2) generally amend the County law regarding vendors.

By amending

Montgomery County Code  
Chapter 47, Vendors  
Sections 47-1 and 47-2

<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:*

**Sec 1. Sections 47-1 and 47-2 are amended as follows:**

**47-1. Definitions.**

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

[(a)] *Director* means the Director of the Department of Permitting Services or the Director's designee.

Food service truck means an itinerant food service facility, licensed under Chapter 15, operating from self-propelled motorized vehicle that is parked or temporarily located where food items are sold to the general public.

[(b) (1)] *Vendor* means any person who sells, offers to sell, or solicits orders for any goods (including perishable foods) or services:

[(A)](1) on any public street, sidewalk, or other public property or right-of-way;

[(B)](2) door-to-door in a vehicle or on foot;

[(C)](3) from a vehicle, or temporary stand or structure, that is parked or otherwise temporarily located while goods are sold or services dispensed; or

[(D)](4) from a pushcart or other slow-moving vehicle.

[(2)] *Vendor* does not include a person who:

[(A)](1) is invited to a residence or business by prior appointment with an owner or legal occupant of the premises to provide goods or services to the owner or legal occupant;

[(B)](2) takes orders solely for the delivery of newspapers, or supplies or sells newspapers through newsracks;

[(C)](3) is 16 years old or younger if the minor:

[(i)](A) is under the direct supervision of a vendor licensed under this Chapter; and



56 right-of-way within 500 feet of any public or private elementary or  
57 secondary school.

58 *Approved:*

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George Leventhal, President, County Council Date

60 *Approved:*

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Isiah Leggett, County Executive Date

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

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Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 32-15

### *Vendors – Hours and Places of Operation*

<b>DESCRIPTION:</b>	Bill 32-15 would amend the hours of operation allowed for vendors operating food service trucks.
<b>PROBLEM:</b>	Vendors using food trucks are restricted to operating between 9:00am and sunset, meaning that for parts of the year they can only serve lunch. This limitation hurts the viability of operating a food truck in the County
<b>GOALS AND OBJECTIVES:</b>	Create a provision in the law which extends the hours in which vendors using food trucks may operate, while retaining the existing hours of operation for other vendors.
<b>COORDINATION:</b>	Department of Permitting Services
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Josh Hamlin, 240-777-7892
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	Violation of Chapter 47 is a class A violation