

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

Senate Bill 520 (Senator Montgomery, *et al.*)
 Education, Health, and Environmental Affairs

Agriculture - Commercial Feed and Drinking Water - Antimicrobial Drug Prohibition

This bill prohibits, beginning October 1, 2016, the use, sale, or distribution for use or sale within the State of any commercial feed or drinking water that (1) contains a “critical antimicrobial animal drug” as a feed ingredient and (2) is intended for “nontherapeutic use.”

Fiscal Summary

State Effect: General fund expenditures increase by \$113,800 in FY 2017 for the Maryland Department of Agriculture (MDA) to hire an additional inspector and laboratory technician to enforce the bill’s prohibition. Future years reflect annualization and inflation. Revenues are not materially affected.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	0	0	113,800	126,400
Net Effect	\$0	\$0	\$0	(\$113,800)	(\$126,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill does not directly affect local government finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Critical antimicrobial animal drug” means a drug that is intended for use in food-producing animals and is composed in whole or in part of (1) any kind of penicillin, tetracycline, macrolide, lincosamide, streptogramin, aminoglycoside, or sulfonamide or (2) any other drug or derivative of a drug that is used in human beings or intended for use in human beings to treat or prevent disease or infection caused by microorganisms.

“Nontherapeutic use” means the use of a critical antimicrobial animal drug as a feed or water additive for an animal in the absence of disease that has been diagnosed by a veterinarian in the animal. “Nontherapeutic use” includes use for the purpose of growth promotion, feed efficiency, weight gain, routine disease prevention, or any other routine purpose.

Current Law: Under the Maryland Commercial Feed Law, the Secretary of Agriculture must sample, inspect, test, and make analyses of commercial feed distributed in the State at any time and place and to the extent considered necessary to ensure compliance with the law. A distributor generally must register each brand name or product name of commercial feed before distributing it in the State, unless it has been registered by another person and the product label has not been altered or changed.

A person may not adulterate or misbrand a commercial feed, distribute adulterated or misbranded feed, or distribute a commercial feed that is not registered. The Secretary may issue and enforce a written stop-sale order to the owner, custodian, or distributor of any commercial feed found to be in violation of the Maryland Commercial Feed Law or its implementing regulations, or that has been found by federal or State authorities to cause unreasonable adverse effects to humans, animals, or the environment. A person may not remove or dispose of a commercial feed in violation of such a stop-sale order. Finally, a person may not alter or destroy any required label on commercial feed products.

Generally, any person who violates any provision of the Agriculture Article is guilty of a misdemeanor, and unless another penalty is specifically provided, is subject to a fine of up to \$500 and/or imprisonment for up to three months. Any person found guilty of a second or subsequent violation is subject to a fine of up to \$1,000 and/or imprisonment for up to one year. An administrative penalty of up to \$2,000 may also be imposed on a person who violates the Maryland Commercial Feed Law, in lieu of refusing or cancelling a registration.

Background: MDA’s State Chemist Section regulates the sale and distribution of animal feed products, and the U.S. Food and Drug Administration (FDA) regulates the

manufacturing and distribution of food additives and drugs given to animals. In addition to animal feed, the State Chemist Section also regulates the sale and distribution of pesticides, pet foods, fertilizers, compost, soil conditioners, and agricultural liming materials.

FDA recently began implementation of “a voluntary strategy to promote the judicious use in food-producing animals of antibiotics that are important in treating humans,” with the goal of protecting public health and helping to curb the development of antimicrobial resistance which reduces the effectiveness of existing antibiotics in treating infections. The strategy involves phasing out production uses of antimicrobial drugs that are important for treating humans and phasing in veterinary consultation or oversight of remaining therapeutic uses of the drugs, including disease prevention. FDA intends to monitor the progress of voluntary adoption of the recommended changes and after three years evaluate the rate of voluntary adoption and consider further action as warranted.

State Expenditures: General fund expenditures increase by \$113,835 in fiscal 2017, which accounts for the October 1, 2016 effective date of the bill’s prohibition. This estimate reflects the cost of hiring an inspector to inspect affected facilities and their records and an additional laboratory technician to prepare samples gathered from inspections for chemical and/or microbiological analyses. It includes salaries, fringe benefits, one-time start-up costs (including a vehicle), and ongoing operating expenses.

MDA indicates that determining compliance with the bill in the marketplace requires random sampling and analyses of all feed products for livestock intended for human food. The State Chemist Section currently has four inspectors that handle the various existing enforcement responsibilities of the section for the whole State. Conducting inspections to determine compliance with the bill’s prohibition against multiple critical antimicrobial animal drugs will take additional time that the existing inspectors do not have the capacity to handle. Conducting analyses to determine the existence of the prohibited drugs in the collected samples will also take additional time, requiring an additional laboratory technician.

Positions	2
Salaries and Fringe Benefits	\$84,373
Vehicle and Equipment	23,230
Operating Expenses	<u>6,232</u>
Total FY 2017 State Expenditures	\$113,835

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Small Business Effect: The bill is expected to have a meaningful impact on small business producers of food-producing animals. Information is not available from which to determine how many small businesses could be affected, although MDA indicates that in a given year, producers generally use some antibiotics (of which critical antimicrobial drugs are a subset) in their animals, whether for therapeutic or nontherapeutic purposes, with the exception of organic producers.

Currently, under State law governing the practice of veterinary medicine, a person may administer “to the ills and injuries of [his or her] own animals if they otherwise comply with all the laws, rules, and regulations relative to the use of medicines and biologics,” without being licensed as a veterinarian. The bill is expected to affect smaller producers that use drugs affected by the bill without the services of a veterinarian, requiring those producers to seek the services of a veterinarian, which may not be cost-effective. The bill also prohibits the use of the affected drugs for disease prevention.

Delmarva Poultry Industry, Inc. indicates that the bill’s prohibition may affect the level of meat production under the operations of the meat-chicken companies on Maryland’s Eastern Shore, potentially affecting family farms with which the companies contract to grow the chickens and small businesses that provide services to farms. The family farms are paid based on the amount of meat provided and the extent to which the grower can minimize the companies’ input costs (feed, bird health programs, bedding material, propane gas to heat the houses, and technical advice).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; U.S. Food and Drug Administration; Delmarva Poultry Industry, Inc.; Department of Legislative Services

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mlm/lgc

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