

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

House Bill 1285 (Delegate Healey, *et al.*)
 Environmental Matters

Agriculture - Neonicotinoid Pesticides - Restricted Use

This bill requires each neonicotinoid pesticide distributed, sold, or offered for sale in the State to be classified as a restricted use pesticide. A person may only distribute, sell, or offer for sale a neonicotinoid pesticide if (1) it is designated as a restricted use pesticide in a manner determined by the Maryland Department of Agriculture (MDA) and (2) the purchaser is a certified applicator. A neonicotinoid pesticide may only be applied by a certified applicator. MDA must adopt implementing regulations.

Fiscal Summary

State Effect: General fund expenditures increase by \$86,700 in FY 2015, reflecting the hiring of two contractual inspectors and one-time and ongoing operating expenses. Future year general fund expenditures reflect one-time expenses in FY 2016 and annualization and inflation of ongoing salaries and expenses through FY 2017. Revenues are not materially affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	86,700	45,000	38,300	0	0
Net Effect	(\$86,700)	(\$45,000)	(\$38,300)	\$0	\$0

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background:

Restricted Use Pesticides

The Secretary of Agriculture is required to take various actions to regulate pesticide use, including (1) adopting rules and regulations governing the storage, sale, distribution, exchange, use, and disposal, of any pesticide and its container and (2) adopting use classifications and other pertinent pesticide regulation provisions established by the U.S. Environmental Protection Agency (EPA) for purposes of uniformity and in order to enter into cooperative agreements. Under MDA regulations, a “restricted use pesticide” is a pesticide classified as such by Title 5 of the Agriculture Article, the federal government, or the Maryland Secretary of Agriculture. Under Title 5 of the Agriculture Article, cyclodiene termiticides are classified as restricted use pesticides, though MDA advises that those pesticides are no longer used. MDA indicates that the EPA list of restricted use pesticides is effectively the list of restricted use pesticides for purposes of Maryland’s regulation of restricted use pesticides.

A person who sells or distributes restricted use pesticides (1) must hold a dealer permit issued by MDA; (2) must maintain specified records on the sale or distribution of each restricted use pesticide; and (3) may not sell or distribute a restricted use pesticide to any person other than a permitted dealer or a certified applicator or that person’s authorized representative. A person may not use a restricted use pesticide unless that person is a certified applicator or is a person working under the supervision of a certified applicator.

Neonicotinoid Pesticides

EPA indicates that it has not been demonstrated that declines in pollinator health are caused by pesticides, but there is concern that pesticides in combination with other factors may be associated with the declines. Neonicotinoid pesticides, a class of insecticides which affect the central nervous system of insects, are being reviewed by EPA as part of a pesticide registration review program intended to ensure that registered pesticides continue to not have unreasonable adverse effects. It appears that the review of neonicotinoid pesticides is at least in part focused on the effects on pollinators. Based on concern about the potential effects of neonicotinoid pesticides on nontarget arthropods, including pollinators, EPA also recently implemented a requirement that products that contain any of four types of neonicotinoid pesticides, and that are for outdoor application to foliage, be labeled with specific terms that highlight measures necessary to better protect pollinators.

There appear to be at least a small number of pesticide products on EPA’s Restricted Use Products List that contain neonicotinoid active ingredients, but MDA advises that the bill causes a significant number of neonicotinoid pesticides that are not currently classified as restricted use pesticides to be subject to the sales and application restrictions applicable to restricted use pesticides.

State Expenditures: General fund expenditures increase by \$86,662 in fiscal 2015, which accounts for the bill’s October 1, 2014 effective date. This estimate reflects the cost of hiring two contractual inspectors through fiscal 2017 to allow MDA to inspect a significant number of retail operations (hardware stores, garden centers, plant nurseries, *etc.*) that do not have dealer permits and are currently only visited on a limited basis by MDA inspectors, to ensure that neonicotinoid pesticides are not being sold by businesses that do not have dealer permits to persons that are not certified applicators. MDA has indicated that permanent staff are needed, but it appears that an initial effort can be made to inspect the retail operations and educate them about the restricted use classification of neonicotinoid pesticides over an approximately three-year period, with future enforcement handled with MDA’s existing staff (seven inspector positions). It includes salaries, fringe benefits, one-time start-up costs (including outreach mailings), and ongoing operating expenses.

Contractual Positions	2
Vehicles	\$37,240
Other Operating Expenses	26,103
Salaries and Fringe Benefits	<u>23,319</u>
Total FY 2015 State Expenditures	\$86,662

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses through fiscal 2017.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Small Business Effect: Small pest control businesses, farmers, and other small businesses may be negatively affected by the bill’s classification of neonicotinoid pesticides as restricted use pesticides that may only be applied by a certified applicator. Under the bill, noncertified employees of small pest control business are not able to apply the pesticides, potentially limiting a business’ ability to use those pesticides. Any increase in business pest control businesses experience due to the neonicotinoid pesticides being limited to application only by certified applicators is expected to be outweighed by the negative impact of noncertified employees of the business not being able to apply the pesticides. Many farmers are certified applicators, but those that are not

and currently use neonicotinoid pesticides, or those that are certified but have employees apply neonicotinoid pesticides, may be impacted. Other noncertified small businesses that apply neonicotinoid pesticides will not be able to do so without becoming certified. Whether or not small pest control businesses, farmers, or other small businesses are significantly affected financially by the bill, however, is unclear.

Small business retail operations may experience reduced sales as a result of neonicotinoid pesticides only being allowed to be sold by an operation with a dealer permit and only to a certified applicator.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, U.S. Environmental Protection Agency, Maryland State Pest Control Association, Department of Legislative Services

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