

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 938 (Delegate Kramer, *et al.*)  
Health and Government Operations

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**Health - General - Poultry Processed in the People's Republic of China - Notice Requirements**

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This bill establishes notice requirements for food service facilities that purchase, and grocery stores that sell, poultry products processed in the People's Republic of China and creates penalties for persons who violate the provisions of the bill.

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**Fiscal Summary**

**State Effect:** The Department of Health and Mental Hygiene (DHMH) can promulgate regulations to implement the bill's provisions with existing resources. The bill's penalty provisions are not expected to materially affect general fund revenues or expenditures.

**Local Effect:** Local health departments can assess, in the course of their regular inspections, whether a food service facility or grocery store is in compliance with the bill. The bill's penalty provisions are not expected to materially affect local government operations or finances.

**Small Business Effect:** Potential meaningful as discussed below.

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**Analysis**

**Bill Summary:** A "poultry product" means a poultry carcass or part of a carcass as well as any product made wholly or partially from a poultry carcass. "Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

A food service facility that purchases a poultry product processed in the People's Republic of China must include notice on its menu that an item on the menu contains this poultry. The notice must (1) be listed next to the name of the menu item; (2) state "this item contains poultry processed in the People's Republic of China"; and (3) be in a size and typeface of equal prominence to the price or name of the menu item.

Likewise, a grocery store that sells a poultry product that was processed in the People's Republic of China must post a notice to customers indicating that the store sells a product that contains this poultry. The notice must (1) be posted in an area inside the store that is prominently visible to all customers and (2) state "this grocery store sells poultry products that are processed in the People's Republic of China" in at least a two-inch bold font.

The bill exempts food service facilities, but not grocery stores, from the standard penalties for food establishments for violations arising under the bill. However, the bill establishes criminal penalties for both food service facilities and grocery stores that violate the notice requirement. Specifically, a person who violates these provisions is guilty of a misdemeanor and, on conviction, is subject to a fine of \$1,000 for the first offense, and a fine of \$2,500 for each subsequent offense.

**Current Law:** Generally, a "food service facility" is a place where food or drink is prepared for sale or service on the premises or elsewhere, or any operation where food is served or provided to the public, regardless of whether there is a charge. Food service facilities are a type of "food establishment" regulated under the Health-General Article. A person must have a license from DHMH or a suitable license from a county health department in order to operate a food service facility. A representative of DHMH may enter any food establishment at a reasonable time to conduct inspections.

A food establishment licensee that violates any law or regulation relating to food establishments is guilty of a misdemeanor and, on conviction, is subject to fines of up to \$1,000 and/or up to 90 days imprisonment for a first violation. For a second violation, the maximum penalty is a \$2,500 fine and/or one year imprisonment. In addition, a violator is subject to a civil penalty of up to \$5,000, to be collected by the District Court for any county, and may be enjoined from continuing the violation. Each day is a separate violation.

DHMH's Office of Food Protection and Consumer Health Services is responsible for assuring that all foods processed, prepared, stored, distributed, and served at both the retail and wholesale levels throughout the State are safe, wholesome, free of adulterants, and properly packaged and labeled. Food processing plants fall under DHMH's jurisdiction, and they are regulated under the Code of Maryland Regulations (10.01.17).

Current Maryland law does not contain any specific provisions relating to poultry from the People's Republic of China.

The U.S. Department of Agriculture's (USDA) Country of Origin Labeling Law requires retailers, such as full-line grocery stores, supermarkets, and club warehouse stores, to notify consumers with information regarding the source of chicken.

**Background:** In August 2013, USDA released the results of an audit of four Chinese poultry processing plants conducted by the Food Safety and Inspection Service (FSIS). The audit cleared the plants as meeting FSIS inspection and safety standards, which means that the plants may be certified to process poultry slaughtered in the United States or other qualified nations and return it to the United States in cooked products. Any such products sold in the United States will not be labeled as containing poultry that was processed in China. However, at least initially, the plants may not process chicken slaughtered in China for consumption in the United States.

There has been considerable concern in the United States about the safety of poultry processed in China. Several outbreaks of avian flu in China have been linked to its poultry, and a recent investigation by the U.S. Food and Drug Administration linked the deaths of 500 dogs in the United States to chicken jerky treats that came from China.

Although USDA requires the country of origin to be labeled for chicken sold by retailers, according to DHMH, food service facilities may not be aware that they are using products from the People's Republic of China because there is no requirement that processed products like chicken nuggets list all countries of origin for included products on the label. This would make it very difficult for a food service facility to comply with the bill's provisions.

**Small Business Effect:** Food service facilities may need to reprint menus, and grocery stores must have signs made. The bill may result in lower demand for poultry products from food service facilities and grocery stores if consumers decide not to purchase chicken products from the People's Republic of China or frequent grocery stores with the notification regarding poultry products from the People's Republic of China. Additionally, as noted above, it may be difficult for food service facilities to comply with the requirements of the bill. Thus, the bill may have a significant impact on small business food service facilities and grocery stores.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Agriculture, Office of the Attorney General (Consumer Protection Division), Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Maryland Association of Counties, Maryland Association of County Health Officers, *New York Times*, U.S. Department of Agriculture, Department of Legislative Services

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