

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 56

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Agriculture)

Education, Health, and Environmental Affairs

Environment and Transportation

Secretary of Agriculture - Regulation of Poultry to Protect Animal Health and Control Avian Influenza

This departmental bill expands the existing authority of the Secretary of Agriculture to regulate live poultry markets, production facilities, and poultry dealers to protect animal health and control avian influenza, by broadening the definition of the markets to which the Secretary's authority applies and by providing the Secretary with certain flexibility to determine how to apply that authority.

Fiscal Summary

State Effect: None. The bill can be implemented with existing resources.

Local Effect: None.

Small Business Effect: The Maryland Department of Agriculture (MDA) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill expands the definition of "live poultry market" and clarifies the definition of "poultry dealer" under statutory provisions relating to the regulation of poultry to protect animal health and control avian influenza.

Under the bill, “live poultry market” is defined as any facility or location where poultry (1) is offered for sale, sold, distributed, or transferred or (2) is slaughtered and sold on site. “Poultry dealer” is defined as a person who engages in the business of buying, selling, exchanging, or transporting poultry between a production facility and a live poultry market.

The bill authorizes the Secretary of Agriculture to determine the extent to which live poultry market operators, production facility operators, and poultry dealers are subject to an existing annual license requirement. In addition, a requirement that an animal health protection program adopted by the Secretary meet specified U.S. Department of Agriculture (USDA) requirements is changed to an authorization for the adopted program to include a program that meets those requirements. The bill clarifies that the Secretary’s authority to adopt an animal health protection program is subject to State law provisions governing the administration of medically important antimicrobial drugs to cattle, swine, and poultry.

Current Law: “Live poultry market” is defined as any facility where live poultry is gathered to be slaughtered and sold on site. “Poultry” is defined as any living domesticated bird. “Poultry dealer” is defined as a person who is in the business of trading, selling, transporting, or moving poultry between a production facility and a live poultry market. “Production facility” is defined as the facility or farm that is the origin of poultry offered for sale at a live poultry market.

Each live poultry market operator, production facility operator, and poultry dealer is required to obtain an annual license from the Secretary of Agriculture.

The Secretary is given the authority to adopt an animal health protection program that is applicable to any live poultry market, production facility, and poultry dealer and that meets the regulatory requirements of USDA’s Uniform Standards for the Prevention and Control of H5 and H7 Low Pathogenicity Avian Influenza in the live bird marketing system.

A person who keeps poultry is also required to register with the Secretary.

Background: The provisions of current law that are amended by the bill were enacted in 2005 (Chapter 390) in response to an avian influenza disease outbreak in Maryland. MDA indicates that the definition of “live poultry market” under Chapter 390 (as well as the USDA definition at the time) only included facilities where poultry was slaughtered on site because those facilities were considered to be the major threat for avian influenza disease outbreaks at the time.

MDA indicates that with growing interest in small poultry sales and backyard flocks, the current and future poultry disease threat also lies in poultry markets other than the traditional large auction markets, such as swap meets, flea markets, and small retail

markets. USDA's Animal and Plant Health Inspection Service works closely with states and the poultry industry to prevent avian influenza from becoming established in the U.S. poultry population, and MDA indicates that USDA has expanded its focus beyond markets where poultry is slaughtered on site. In addition, MDA indicates that the limited authority under Chapter 390 has prevented it from establishing comprehensive regulations – leading to the need for special, emergency orders to control and prevent disease – and has impeded enforcement actions.

Small Business Effect: DLS disagrees with MDA's assessment that the bill has minimal or no impact on small businesses because it appears that the regulation of markets, production facilities, and dealers pursuant to the expanded authority provided to the Secretary of Agriculture under the bill at least has the potential to meaningfully impact small businesses. Small businesses that are subject to regulation by the Secretary as a result of the bill may incur expenses to comply with regulatory requirements. On the other hand, small businesses also may meaningfully benefit from the protection more comprehensive regulation of live poultry markets, production facilities, and poultry dealers may provide against the negative economic impacts resulting from the outbreak of disease.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; U.S. Department of Agriculture; Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2019
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Revised - Amendment(s) - March 18, 2019
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Secretary of Agriculture – Regulation of Poultry to Protect Animal Health and Control Avian Influenza

BILL NUMBER: SB 56

**PREPARED BY: Maryland Department of Agriculture/Animal Health Program
(Dept./Agency)**

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

N/A