

Department of Legislative Services  
 Maryland General Assembly  
 2020 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 156 (Delegate Kerr, *et al.*)  
 Environment and Transportation

**Agriculture - Cost-Sharing Program - Sale of Harvested Cover Crops**

This bill authorizes a person who plants rye or two-row barley cover crops as a best management practice (BMP) under the Maryland Department of Agriculture’s (MDA) Maryland Agricultural Water Quality Cost Share Program (MACS) to sell the harvested rye or two-row barley to (1) a malting facility in the State or (2) a person who will process the rye or two-row barley for sale in the State to a person who holds a Class 1 distillery license, a Class 5 brewery license, a Class 6 pub-brewery license, a Class 7 micro-brewery license, a Class 8 farm brewery license, or a Class 9 limited distillery license.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$66,800 in FY 2021. Future years reflect annualization and ongoing costs. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	66,800	79,500	81,000	83,400	85,800
Net Effect	(\$66,800)	(\$79,500)	(\$81,000)	(\$83,400)	(\$85,800)

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

**Local Effect:** None.

**Small Business Effect:** Meaningful.

## Analysis

### **Current Law/Background:**

#### *Maryland Agricultural Water Quality Cost Share Program – Cover Crops*

MACS, which is administered by MDA, was established by the Maryland General Assembly in 1982 as one of several initiatives to improve water quality and achieve State water quality goals. MACS provides financial assistance to farmers to implement BMPs to improve water quality. Cover crops, streamside buffers, and animal waste storage systems are among 30 BMPs eligible for funding under the program. Financial assistance for cover crops under MACS is funded by the Bay Restoration Fund and the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

Cover crops are cold-hardy cereal grains such as wheat, rye, and barley that are planted in the fall in newly harvested fields. Once established, cover crops recycle unused plant nutrients that remain in the soil and protect fields against wind and water erosion. Additionally, cover crops improve soil health, increase organic matter in the soil, reduce weeds and pests, and provide habitat for beneficial insects. Maryland's nutrient management regulations require farmers to plant cover crops when applying organic nutrient sources to fallow ground in the fall.

To offset seed, labor, and equipment costs associated with planting cover crops, MACS provides farmers with grants to plant cover crops. Cover crops may be grazed or chopped for livestock forage for on-farm use after becoming well established. Cover crops that are sold as commodities are not eligible for cost-share funding. Among other things, to qualify for funding, participants in the cover crop program must be in good standing with MACS and in compliance with Maryland's nutrient management regulations.

#### *Licensed Alcoholic Beverage Manufacturers*

Alcoholic beverages manufacturers (breweries, wineries, and distilleries) are currently licensed and regulated by the Comptroller's Office; however, these regulatory and licensing duties must transfer to the Alcohol and Tobacco Commission by July 1, 2020, pursuant to Chapter 12 of 2019. There are nine licenses that authorize the production of alcoholic beverages in the State: four for beer, two for wine, and three for liquor. Each license authorizes the production of different amounts of beer, wine, or liquor and grants the license holder various other privileges and responsibilities related to, among other things, the sale and sampling of beer, wine, or liquor products on the licensed premises, the sale of food, and whether the license holder must use State-grown agricultural products. For example, a Class 5 brewery license authorizes the brewing of any amount of beer with few other restrictions, while a Class 8 farm brewery license authorizes only the brewing of

up to 15,000 barrels of beer each year, but that beer must be manufactured with an ingredient from a Maryland agricultural product.

**State Expenditures:** General fund expenditures increase by \$69,791 in fiscal 2021, which accounts for the bill’s October 1, 2020 effective date. This estimate reflects the cost of hiring one agricultural resource conservation specialist within MDA to track the portions of cover crops that are sold to an authorized malting facility or alcoholic beverages license holder and are eligible for MACS funding as a result of the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses, including contractual computer costs. The information and assumptions used in calculating the estimate are stated below:

- under the current program, commodity crops that are sold are ineligible for MACS funding;
- only the portions of rye or two-row barley cover crops sold to a malting facility in the State or to qualifying alcoholic beverage license holders are eligible for MACS funding under the bill, which means MDA must track the sale of these crops to verify funding eligibility, resulting in a significant expansion of duties from current procedures;
- according to MDA, one in four years of malting grains likely do not meet malting standards and cannot be sold to malting facilities or qualifying alcoholic beverage license holders; and
- assuming robust participation by Maryland farmers, MDA cannot absorb the additional responsibilities under the bill with existing staff and resources.

Position	1
Salary and Fringe Benefits	\$51,187
Computer-related Contractual Costs	12,500
Other Operating Expenses	<u>6,104</u>
<b>Total FY 2021 State Expenditures</b>	<b>\$69,791</b>

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

This analysis assumes robust participation by farmers in the State. To the extent that only a small number of farmers participate, MDA can likely implement the bill with existing staff.

Overall expenditures for the MACS program are unaffected. Although weather dependent, the MACS program is generally fully subscribed.

**Small Business Effect:** The bill may result in a meaningful increase in revenues for farmers who successfully grow qualifying rye or two-row barley cover crops and are able to sell the crops to eligible malting facilities or alcoholic beverage licensees and collect MACS cost-share funding. Most farms are small businesses. However, to the extent that a rye or two-row barley cover crop does not meet malting standards (and, therefore, cannot be sold under the bill) revenues for farmers may decrease because they would not be eligible for MACS cost-share funding; this revenue loss may be mitigated to the extent farmers are able to sell such crops for other purposes.

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### **Additional Information**

**Prior Introductions:** HB 1050 of 2019, a similar bill, was referred to the House Environment and Transportation Committee but was subsequently withdrawn.

**Designated Cross File:** SB 295 (Senator Hough) - Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland Department of Agriculture; Comptroller's Office; Department of Legislative Services

**Fiscal Note History:** First Reader - February 6, 2020  
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