

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 9

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

Education, Health, and Environmental Affairs

Environment and Transportation

Agriculture - Maryland Egg Law - Revisions

This departmental bill modifies the Maryland Egg Law by (1) expanding the definition of “shell eggs” to apply to poultry eggs in general and not just domesticated chicken eggs; (2) expanding the Secretary of Agriculture’s enforcement authority; (3) establishing a definition of adulterated shell eggs; (4) establishing additional registration requirements for packers and distributors of shell eggs; and (5) requiring retailers and food service facilities to retain shell egg invoice delivery tickets for 90 days.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances. Any additional fee revenue collected under the Maryland Egg Law resulting from the expanded definition of shell eggs is expected to be minimal.

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 concurs that the bill is not expected to negatively impact small businesses, but the positive impact discussed by MDA, on producers of shell eggs from poultry other than chickens, may be meaningful.

Analysis

Bill Summary:

Expanded Definition of “Shell Eggs”

The bill expands the applicability of the Maryland Egg Law so that it applies to “shell eggs” of any living domesticated bird (“poultry”) and not just chickens. Under the bill, “shell eggs” are defined as raw or treated *poultry* (replacing “chicken”) eggs that are still in the shell and intended for human consumption. Shell eggs produced from poultry other than domesticated chickens must be sold by net quantity, instead of by size or weight classifications applicable to domesticated chicken eggs. The bill also makes other conforming changes that allow for different standards – established partially through regulation – to apply to shell eggs produced from poultry other than domesticated chickens and shell eggs produced from domesticated chickens.

Expanded Enforcement Authority

The bill adds to the Secretary of Agriculture’s existing authority to enter locations where (or from where) shell eggs are sold, offered, or exposed for sale during usual business hours to enforce the Maryland Egg Law. The bill adds to that authority by specifying that, among other existing specified locations, the Secretary may enter any food service facility, production facility, or packing facility and any location where shell eggs are produced, distributed, packed, or donated.

The bill also authorizes the Secretary to examine, test, or sample any shell egg, layer house, pen, cooler, packing facility, washing facility, or any other place or item to determine whether the environment of the facility where shell eggs are produced, packed, or held is in compliance with the Maryland Egg Law.

Definition of Adulterated Shell Eggs

The bill establishes that shell eggs are adulterated if the shell eggs are (1) contaminated by a pathogen, poisonous substance, or other deleterious substance or (2) subjected to conditions likely to cause contamination that may render the shell eggs injurious to human health.

Packer and Distributor Registration Requirements

The bill requires an applicant for registration as a packer or distributor to (1) be in compliance with specified federal standards established by the U.S. Food and Drug Administration (FDA) for the prevention of *Salmonella enteritidis* in shell eggs during

production, storage, and transportation, as applicable, and (2) agree to allow the Secretary or the Secretary's designee to enter the applicant's premises to determine compliance with the Maryland Egg Law.

Retention of Invoice Delivery Ticket

The bill requires a retailer or food service facility to keep each invoice delivery ticket received at the time of delivery of shell eggs, for 90 days.

Current Law: The Maryland Egg Law regulates shell eggs, defined as raw or treated chicken eggs that are still in the shell and intended for human consumption. A person may not donate, sell, advertise, offer, or in any manner represent for sale shell eggs to any person unless the shell eggs meet standards of quality, grade, and size classification under the Maryland Egg Law.

Among other things, the Maryland Egg Law (1) establishes standards, or requires the Secretary of Agriculture to establish standards, for size or weight classification of shell eggs and quality of shell eggs; (2) requires the Secretary to take specified actions if any shell eggs are found to be adulterated or unfit for human consumption; (3) establishes registration, reporting, and recordkeeping requirements for packers and distributors; (4) requires a person who sells or delivers shell eggs to a distributor, retailer, or food service facility to furnish an invoice delivery ticket that accurately details the sale of the shell eggs; and (5) establishes enforcement authority of the Secretary and penalties for violations of the law or implementing regulations.

Background: MDA indicates that the bill primarily will:

- allow for Maryland's law and regulations applicable to the prevention of *Salmonella enteritidis* in shell eggs to be better aligned with federal law and regulations and best practices for protecting human health, allowing for more efficient and effective regulation; and
- allow for producers of shell eggs from poultry other than the domesticated chicken (quail, goose, duck, and other poultry) to register under the Maryland Egg Law, expanding business opportunities for those producers.

Salmonella enteritidis in shell eggs is currently regulated in Maryland, at the State level, under provisions within MDA's animal health regulations and the Maryland Department of Health's (MDH) food regulations. Those provisions were adopted under emergency circumstances of an outbreak in 1989, under MDA's animal health regulatory authority and MDH's authority to regulate the distribution of any class of food that may be contaminated by microorganisms. MDA generally has primary responsibility for

prevention of *Salmonella enteritidis* under the animal health regulations, and MDH's food regulations ensure that shell eggs in food facilities or establishments inspected under the MDH food regulations are in compliance with MDA's animal health regulations.

MDA indicates that since the adoption of the emergency regulations in 1989, research has been conducted on best practices to control *Salmonella enteritidis* as a public health concern rather than as a poultry disease and those best practices are now incorporated in FDA regulations applicable to chicken shell egg producers with 3,000 or more laying hens.

The bill will allow for (1) chicken shell egg producers with 3,000 or more laying hens to generally be subject only to the FDA regulations for the prevention of *Salmonella enteritidis* and not MDA animal health regulations and (2) MDA to establish public health-focused regulations for the prevention of *Salmonella enteritidis*, in place of the animal health regulations, that would be applicable to chicken egg producers with less than 3,000 laying hens and producers of shell eggs from poultry other than the domesticated chicken. The bill's requirement that a registered packer or distributor be in compliance with the FDA regulations will also eliminate MDA's need to separately obtain testing information from out-of-state egg suppliers that are subject to the FDA regulations.

Finally, MDH's food regulations also require shell eggs to have come from a packer and/or distributor registered under the Maryland Egg Law, in order for the shell eggs to be considered to have come from an "approved source." MDA indicates it has heard from producers of shell eggs from poultry other than the domesticated chicken who would like to be able to register under the Maryland Egg Law in order to be recognized as an approved source by MDH, which would expand their business opportunities.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Agriculture; Maryland Department of Health; University of Maryland Extension; Department of Legislative Services

Fiscal Note History: First Reader - January 13, 2020
mr/lgc Third Reader - January 31, 2020

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510

(301) 970-5510