

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

House Bill 1342 (Delegate Lehman, *et al.*)
Environment and Transportation

Pesticide and Pest Control - State-Owned Property - Pesticide Use Restrictions
and Pollinator Habitat

This bill authorizes the application of certain “listed pesticides” and restricts the application of certain “registered pesticides” on State-owned property. The bill also requires the Maryland Department of Agriculture (MDA) to develop a model pesticide and pollinator habitat management plan to be implemented on State-owned and managed property, as specified. In coordination with MDA, State government units that manage tracts of State-owned property must adapt the model plan to meet the specific needs of each individual tract of land.

Fiscal Summary

State Effect: While the overall effect of the bill on State finances cannot be reliably estimated, State expenditures (multiple funds) for several agencies likely increase beginning in FY 2026. MDA can generally implement the bill with existing budgeted resources, as discussed below. State revenues are not anticipated to be directly affected, as discussed below.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Relevant Definitions

“Aesthetic pesticide” includes any chemical used to control pests, including pesticides, insecticides, and herbicides.

“Listed pesticide” means a pesticide (1) of which the active ingredients are recommended by the National Organic Standards Board in accordance with 7 U.S.C. § 6518, as amended, and published on the National List contained at 7 C.F.R. §§ 205.601 and 205.602 or (2) a pesticide designated as a “minimum risk pesticide” under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

“Registered pesticide” means a pesticide registered by the U.S. Environmental Protection Agency (EPA) and labeled for use in lawn, garden, or ornamental sites or areas in accordance with FIFRA.

Pesticide Application on State-owned Property

A person may only apply a pesticide on State-owned property if the person is applying:

- a listed pesticide; or
- a registered pesticide for the purpose of (1) weed management; (2) controlling an invasive species; (3) controlling disease vectors; (4) controlling biting or stinging insects; (5) controlling stinging plants; (6) property maintenance by a public utility conducted in accordance with any applicable federal, State, or local vegetation management requirement; (7) controlling indoor pests, as specified; (8) controlling pests while engaged in agriculture; or (9) controlling a pest outbreak that poses an imminent threat to human health or has the potential to cause significant economic damage if a registered pesticide is not used.

A person who applies a pesticide for the purpose of controlling a pest outbreak, as specified above, must, within 30 days after the application, notify MDA of the pesticide application and the reasons for use.

Model Pesticide and Pollinator Habitat Management Plan

MDA must develop a model pesticide and pollinator habitat management plan to be implemented on State-owned and managed property. For each individual tract of State-owned property, the unit of State government that manages the tract must work with MDA to adapt the model pesticide and pollinator habitat management plan to meet the specific needs of the individual tract. The model plan must:

- designate at least 20% of the unencumbered land as area that may not be treated by any aesthetic pesticide;
- prohibit the use of pesticides unless the use is authorized under the bill’s provisions regarding the application of listed pesticides and registered pesticides on State-owned property;

- prohibit the use of any pesticide known to be toxic to pollinators, even if the pesticide is a listed pesticide, unless the Secretary of Agriculture determines that the use is necessary to respond to a specific instance of threat to public health;
- implement best management practices outlined in MDA’s managed pollinator protection plan for the designation, maintenance, creation, enhancement, and restoration of pollinator habitat areas;
- be at least as protective of pollinators as MDA’s managed pollinator protection plan; and
- when practicable, prioritize the use of native plants to create habitats for key pollinators.

The model plan may not require an action on land that is inconsistent with any federal, State, or local requirement.

Current Law:

Federal Regulation of Pesticides

EPA primarily regulates the sale, use, and distribution of pesticides under FIFRA and the federal Food, Drug, and Cosmetic Act. FIFRA generally prohibits the sale or distribution in the United States of a pesticide that is not registered by EPA. Because EPA has determined that certain “minimum risk pesticides” pose little to no risk to human health or the environment, EPA has exempted them from the requirement that they be registered under FIFRA.

U.S. Department of Agriculture’s Organic Regulations – National List

The National List portion of the U.S. Department of Agriculture’s organic regulations outlines which nonorganic substances may be used in organic production and handling. In organic crop production, nonsynthetic (natural) substances are allowed unless specifically prohibited, and synthetic substances are prohibited unless specifically allowed under 7 C.F.R. §§ 205.601 - 205.602.

State Regulation on the Use of 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) prescribing, when necessary, the time and conditions under which a pesticide may be sold, distributed, exchanged, or used in different areas of the State. MDA regulations require that a person observe all precautions in the handling, use, storage, and disposal of pesticides, so that

nontarget areas or organisms, including humans, do not suffer injury, and unreasonable adverse effects on the environment do not occur or are minimized.

Generally, to be sold, distributed, or used in Maryland, a pesticide must be registered by both MDA and EPA. Specified pesticides that have greater potential for causing harm are designated as “restricted use pesticides” and may only be used by a certified applicator or a person working under the supervision of a certified applicator. Each commercial application of any pesticide must be under the supervision of a certified applicator who is responsible and liable for the application.

Chapters 661 and 662 of 2016 established certain restrictions on the sale and use of neonicotinoid pesticides and required MDA to incorporate pollinator habitat expansion and enhancement practices into the State’s managed pollinator protection plan in coordination with EPA. (See the Additional Comments section below for information on MDA’s managed pollinator protection plan.)

Pesticide Applicator’s Law

Under the Pesticide Applicator’s Law, (1) each pest control applicator or public agency applicator must obtain an annual certificate indicating competence in one or more established categories from the Secretary of Agriculture (see the categories established in COMAR [15.05.01.08A](#)) and (2) each private (agriculture) applicator must obtain a certificate requiring periodic renewal as determined by the Secretary. Applicants for a certificate must pass a written examination, and the Secretary must establish, by rule or regulation, qualifications for certification to assure competence and responsibility in the application of pesticides. Public agency applicators are exempt from the applicable annual fees.

A public agency that performs pest control must annually obtain a public agency permit indicating those categories in which MDA authorizes it to perform pest control. Records of each pest identification, pesticide recommendation, and pesticide application must be maintained, as specified.

Pollinator Habitat Plan Applicable to Certain State Agencies

The Department of Natural Resources (DNR), the State Highway Administration (SHA), and the Maryland Environmental Service, in consultation with MDA, were each required by Chapter 614 of 2016, as modified by Chapter 755 of 2017, to establish a pollinator habitat plan. Each plan (1) must include best management practices for the designation, maintenance, creation, enhancement, and restoration of pollinator habitat areas; (2) must be as protective of pollinators as MDA’s managed pollinator protection plan; (3) may not require an action on land that is inconsistent with any federal, State, or local law, regulation,

rule, or guidance that applies to the land; (4) may not require the creation of pollinator habitat on productive farmland; and (5) generally, may not allow the use of the following pesticides, seeds, or plants in an area designated or created as a pollinator habitat area.

State Expenditures:

Maryland Department of Agriculture

Information provided by MDA indicates that it can likely develop the model pesticide and pollinator habitat management plan and otherwise implement the bill using existing resources. However, the increase in workload resulting from the bill might require it to divert staff from other activities.

The Department of Legislative Services notes that the bill specifies that *for each individual tract of State-owned property*, the unit of State government that manages the tract must work with MDA to adapt the model pesticide and pollinator habitat management plan *to meet the specific needs of the individual tract*. To the extent that existing MDA staff prove insufficient to work with State agencies to implement this requirement for each individual tract of State-owned property, MDA may need additional staff, resulting in an increase in general fund expenditures.

State Agencies as Users of Pesticides

State expenditures (multiple funds) for various State agencies likely increase beginning in fiscal 2026 to work with MDA to adapt the model plan to meet the specific needs of each individual tract of State-owned property, as required by the bill. State expenditures may also increase to the extent State agencies must find alternative pesticide products or pest control measures (such as manual labor) due to the bill's changes and the implementation of the model plan developed by MDA under the bill.

While the overall impact on State agencies cannot be estimated at this time – and depends, at least to some extent, on the implementation of the model plan – a limited survey of State agencies highlights examples of the bill's potential impact:

- DNR anticipates a significant impact, indicating that it likely needs to hire at least three additional natural resource planners (one for each land managing unit) to address the bill's requirement that the model plan be adapted for each individual tract of land, at an estimated cost – for *each* additional natural resource planner – of \$73,900 in fiscal 2026, increasing to \$99,900 by fiscal 2030;
- the Maryland Department of Transportation advises that it anticipates an increase in Transportation Trust Fund expenditures for SHA for mowing activities; and
- the University System of Maryland advises that higher education expenditures may increase for some of its institutions for weed removal and/or alternative products.

On the other hand, the Department of General Services (DGS) advises that it does not anticipate a significant increase in its expenditures, as DGS already adheres to strict pesticide standards for the more than 6.0 million square feet of State-owned facilities it manages. Depending on the model plan developed, however, it is possible that DGS expenditures could be affected.

State Revenues: Although the bill is not anticipated to *directly* affect State revenues (including special fund revenues that accrue to MDA’s Pesticide Fund), depending on the implementation of the model plan developed under the bill, there is the potential for State revenues to be *indirectly* affected. For example, DNR advises that depending on the implementation of the model plan on State-owned properties leased out for agricultural operations, a decrease in State revenues may occur. Any such effect depends on the implementation of the model plan and cannot be predicted in advance.

Small Business Effect: Any small businesses involved with the application of pesticides on State-owned land (such as farmers who lease State-owned land or contractors that apply pesticides to State-owned land) could be negatively affected due to the bill’s restrictions. Small businesses that sell pesticides to affected State agencies, contractors, or farmers may also be negatively affected. On the other hand, other small businesses may benefit from an increase in the demand for their products/services on State-owned property, such as nurseries or landscapers involved with the sale or planting of native or pollinator plants, the creation or restoration of pollinator habitat, or manual weed removal.

Additional Comments: MDA’s managed pollinator protection plan, the [Maryland Pollinator Protection Plan](#), was released in June 2016. The plan is designed to help various bee-loving populations improve and strengthen pollinator health and habitat.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 932 (Senator Lewis Young) - Education, Energy, and the Environment.

Information Source(s): Maryland Municipal League; University System of Maryland; Morgan State University; St. Mary’s College of Maryland; Maryland Department of Agriculture; Maryland Department of the Environment; Department of General Services; Department of Natural Resources; Maryland Department of Transportation; U.S. Environmental Protection Agency; U.S. Department of Agriculture; Department of Legislative Services

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