

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 234 (Chair, Environment and Transportation Committee)(By
 Request - Departmental - Agriculture)

Environment and Transportation Education, Energy, and the Environment

**Department of Agriculture - Licensing, Registration, Fees and Penalties, and
 Regulation**

This departmental bill makes various changes to numerous regulatory programs within the Maryland Department of Agriculture (MDA). Specifically, the bill (1) alters and establishes license renewal and reinstatement requirements for horse establishments, including authorizing the Maryland Horse Industry Board (MHIB) to establish late and reinstatement fees; (2) establishes administrative penalties for beekeepers who fail to register with MDA or provide moveable frames for a bee colony in a timely manner, as specified; (3) alters the administrative penalty provisions applicable to the submission of specified reports by farmers under the Nutrient Management Program; (4) alters the renewal process for the registration of weights and measures; and (5) repeals the existing statutory fee structure for the registration of weights and measures and instead requires the Secretary of Agriculture to set reasonable fees at a level to produce funds to approximate the cost of registering each weight and measure used for commercial purposes.

Fiscal Summary

State Effect: Special fund revenues likely increase by *at least* \$700,000 annually beginning in FY 2025, as discussed below; the minimum estimated increases are shown in the table below. General fund revenues from administrative penalties increase minimally beginning in FY 2025. State expenditures are not materially affected, though MDA realizes operational efficiencies due to several of the bill’s changes.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
GF Revenue	-	-	-	-	-
SF Revenue	\$700,000	\$710,000	\$707,500	\$700,000	\$700,000
Expenditure	0	0	0	0	0
Net Effect	\$700,000	\$710,000	\$707,500	\$700,000	\$700,000

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

Local Effect: None.

Small Business Effect: MDA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary/Current Law:

Maryland Horse Industry Board

Current Law: MHIB, which is housed at MDA, regulates and promotes the State's horse industry. The board promotes horse exhibitions, horse shows, rodeos, pony clubs, etc. held in the State. Among other duties, MHIB carries out licensing, inspection, and enforcement related to the equine industry.

A person may not engage in the business of operating or maintaining any horse establishment unless they have received a license issued by the board. The license fee is \$125. A license expires on the June 30 following the effective date of the license and may be renewed for additional one-year terms if the licensee (1) is otherwise entitled to be licensed; (2) pays the \$125 renewal fee to the board; and (3) submits a renewal application as specified.

The Bill: The bill requires, at least one month before a license expires, MHIB to send each licensee a license renewal form and a renewal notice that states (1) the date on which the license expires; (2) that the renewal application and fee must be received by MHIB by the license expiration date; and (3) the amount of the renewal fee. MHIB must send the license renewal form and renewal notice by electronic means or first-class mail to the last known electronic or physical address of the licensee.

A person whose license has expired may *renew* the license retroactively *within* 60 days after expiration if the person (1) is otherwise entitled to have the license renewed; (2) submits to MHIB a renewal application as specified; and (3) pays the renewal fee and any late fee established by MHIB. In addition, MHIB may *reinstate* the license of a former licensee if the former licensee (1) applies for reinstatement *more than* 60 days after the expiration of the license; (2) is otherwise entitled to have the license reinstated; (3) submits to MHIB a reinstatement application as specified; and (4) pays the renewal fee and any reinstatement fee established by the board.

Beekeeper Regulation

Current Law: MDA is the agency responsible for inspecting apiaries and honey houses and enforcing requirements applicable to bees, bee colonies, and used bee equipment shipped or transported into the State. MDA also has the authority to quarantine an apiary containing an infected colony or bee equipment and order treatment and/or destruction of an infected colony or bee equipment.

A beekeeper must register annually with MDA each colony that it maintains. By January 1 each year, the beekeeper must complete and submit to MDA a registration form stating the number of maintained colonies and the location of each colony. Any person not registered as a beekeeper who acquires a colony must register it with MDA within 30 days after the acquisition.

In addition, every person engaged in beekeeping must provide movable frames in all hives and must cause the bees in the hives to construct brood combs in the frames so that any frame may be removed without injury to other combs in the hive.

The Bill: The bill establishes various administrative penalties applicable to a violation of the registration requirement. Specifically, a person who fails to register as a beekeeper in a timely manner is subject to the following administrative penalties: (1) \$25, after 30 days following receipt of notice from MDA; (2) \$50, after 60 days following receipt of notice from MDA; and (3) \$100, after 90 days following receipt of notice from MDA.

With respect to moveable frames, the bill requires a beekeeper to provide moveable frames for a colony within 30 days after receipt of notice from MDA. If a beekeeper fails to do so, the beekeeper is subject to the following administrative penalties: (1) \$25, after 30 days following receipt of notice by MDA; and (2) \$50, after 60 days following receipt of notice by MDA.

Nutrient Management Plans

Current Law: Pursuant to the Water Quality Improvement Act of 1998, agricultural operations with \$2,500 or more in gross annual income and livestock operations with 8,000 pounds or more of live animal weight must have and comply with a nutrient management plan for nitrogen and phosphorus. A nutrient management plan is prepared to manage the amount, placement, timing, and application of animal waste, commercial fertilizer, sludge, or other plant nutrients to prevent pollution by transport of bioavailable nutrients and to maintain productivity.

MDA certifies and licenses nutrient management consultants and businesses to prepare nutrient management plans for farm operations and also issues certificates to farm operators to develop their own plans.

Pursuant to current regulations, a summary of each nutrient management plan must be filed with MDA when it is first developed. Following the first submission of the required nutrient management plan information, all operators must file an annual implementation report (AIR) by March 1 each year.

If a person fails to file a summary report or AIR, MDA must notify the person that they are in violation of the requirement and subject to (1) after 30 days from issuance of the notice, an administrative penalty between \$100 and \$250; (2) after 60 days from issuance of the notice, an administrative penalty between \$250 and \$1,000; and (3) after 90 days from issuance of the notice, an administrative penalty of not less than \$1,000.

The Bill: The bill repeals the existing administrative penalty structure for failure to file a summary report or AIR. Under the bill, after 30 days from issuance of the notice, a person who fails to file a summary report or AIR as required by MDA is subject to an administrative penalty of not less than \$1,000.

Weights and Measures

Current Law: The Weights and Measures Program inspects and certifies the accuracy of measuring and weighing devices in the State to ensure the fairness and equity of all commercial transactions involving determination of quantity.

Generally, unless registered with the Secretary of Agriculture, a weight and measure may not be used or possessed for current use for (1) buying or selling any commodity or object; (2) hire or award; (3) computing any charge or payment for services rendered on the basis of weight and measurement; or (4) determining any weight and measure for a charge.

An applicant for a registration must submit to the Secretary an application on a specified form and pay the appropriate registration fee as established in statute; the fees are shown in **Exhibit 1**. A registration for a weight and measure expires one year from the effective date of the registration. Before expiration, the registration may be renewed for an additional one-year term if the applicant (1) is the owner or possessor of a weight and measure; (2) pays the applicable registration fee; and (3) submits a renewal application as specified.

Exhibit 1
Weights and Measures Registration Fees under Current Law

<u>Scale/Meter</u>	<u>Registration Fee</u>
Scales with a capacity of up to 100 lbs.	\$20 per scale, plus \$50 for each business location (maximum fee of \$375 per business location)
Scales with a capacity of more than 100 lbs., up to 2,000 lbs.	\$60 per scale
Scales with a capacity of more than 2,000 lbs.	\$100 per scale
Belt conveyer or railroad track scales	\$300 per scale
Vehicle scales	\$250 per scale
Grain moisture meter	\$100 per scale
Retail motor fuel dispenser meter of under 20 gallons per minute	\$12.50 per meter, plus \$50 for each business location
Retail motor fuel dispenser meter of 20 gallons per minute or more	\$45 per meter
Bulk petroleum fuel meter of 20 gallons per minute, up to 150 gallons per minute	\$50 per meter
Bulk petroleum fuel meter of 150 gallons per minute or more	\$85 per meter
Liquefied petroleum gas meters	\$75 per meter
Point of sale system, defined as specified, connected to a weighing or measuring device	\$100 per business location

Source: Department of Legislative Services

The Bill: The bill requires that at least one month before a weight and measure registration expires, the Secretary must send each person with a known registered weight and measure a registration renewal form and a renewal notice that states (1) the date on which the registration expires; (2) that the renewal application and fee must be received by the Secretary by the registration expiration date; and (3) the amount of the renewal fee. The
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Secretary must send the registration renewal and renewal notice by electronic means or first-class mail to the last known electronic or physical address of the person. A person whose registered weight and measure registration has expired may renew the registration retroactively within 60 days after expiration if the person (1) is otherwise entitled to have the registration renewed; (2) submits a renewal application to the Secretary as specified; and (3) pays the renewal fee and any late fee established by the Secretary.

The bill also repeals the existing fee structure set in statute and instead requires the Secretary to set reasonable fees for registering each weight and measure used for commercial purposes. The fees charged must be set to produce funds to approximate the cost of registering each weight and measure used for commercial purposes.

Background:

Maryland Horse Industry Board

MHIB licenses approximately 800 public horse establishments annually. MDA advises that most horse establishments renew their license and pay the \$125 renewal fee within 60 days of the license expiration date. However, according to MDA, approximately 150 horse establishments are noncompliant after 60 days, which places an administrative burden on MHIB. Specifically, the board estimates that approximately 20 working hours per week for approximately four months are dedicated to bringing horse establishments into compliance with license renewal requirements. By authorizing MHIB to set late and reinstatement fees, the bill is intended to encourage compliance and reduce the administrative burden on the board.

Beekeeper Regulation

According to MDA, in 2023, there were 2,338 registered beekeepers in the State. MDA estimates that approximately 5% of beekeepers in the State do not register with the department. MDA advises that the establishment of administrative penalties applicable to beekeepers is intended to encourage compliance with the existing registration and moveable frame requirements.

Nutrient Management Plans

According to MDA's [Nutrient Management Program's 2022 Annual Report](#), 5,087 farms submitted 4,894 AIRs in fiscal 2022, and 193 operators were issued fines for late or missing reports. MDA reports that each year, it sends an initial warning letter to approximately 1,500 operators that miss the March 1 deadline. MDA further advises that it sends repeated letters until the farmers come into compliance, and only about 50 operators annually pay the \$1,000 administrative penalty. According to MDA, the existing penalties provide little

incentive for operators to submit AIRs in a timely manner, and the effort required to bring operators into compliance places an administrative burden on the department. The bill's changes are intended to streamline the administrative process and provide more incentive to farmers to submit their AIRs on time.

Weights and Measures

MDA reports that there are approximately 63,000 registered weights and measures devices in the State, and that the Weights and Measures Program has not increased registration fees since 2012. As a result, program costs exceed fee revenues. MDA advises that the Weights and Measures Program requires new equipment to register new device categories (such as electric vehicle chargers, mass flow meters, and diesel exhaust fluid meters) and replacement vehicles, and that various operating costs (such as fuel costs for field operations and the repair of aging fleet vehicles) are anticipated to increase over time. By repealing the existing statutory fees and authorizing MDA to set reasonable registration fees to produce funds to approximate the cost of registering weights and measures for commercial purposes, MDA can address the existing deficit. MDA advises that it intends to increase fees through regulation as a result of these changes.

State Revenues: Special fund revenues likely increase by *at least* \$700,000 annually beginning in fiscal 2025 as a result of the expected increase in weights and measures registration fees and the establishment of late and/or reinstatement fees for the registration of weights and measures and horse establishment licenses. General fund revenues increase minimally due to the bill's provisions that alter and establish administrative penalties for violations of provisions related to the regulation of beekeepers and nutrient management plans.

Weights and Measures

Special fund revenues are anticipated to increase by at least \$700,000 annually once regulations to set the registration fees are promulgated; for purposes of this analysis, it is assumed that regulations are promulgated upon the bill's enactment and apply to all registration renewals in fiscal 2025. According to MDA, registration fees total approximately \$1.6 million annually. However, program costs covered by those fees are anticipated to total at least \$2.3 million annually in future years due to equipment needs, fuel costs, and vehicle repair/replacement costs due to the aging fleet. Accordingly, MDA advises that it needs to generate at least an additional \$700,000 annually in fee revenue to offset its costs.

Therefore, assuming the Secretary of Agriculture sets registration fees for weights and measures used for commercial purposes to produce funds to approximate its anticipated

costs, special fund revenues increase by *at least* \$700,000 annually beginning in fiscal 2025.

Additionally, the bill authorizes a person whose registered weight and measure has expired to renew the registration retroactively 60 days after expiration. In such instances, in addition to the renewal fee, the person must pay any late fee established by the Secretary. Assuming the Secretary establishes such a late fee through regulation, special fund revenues increase further.

Maryland Horse Industry Board

Special fund revenues for MHIB increase by at least \$10,000 in fiscal 2026, \$7,500 in fiscal 2027, and \$5,000 annually thereafter. This estimate is based on the following information and assumptions:

- there are currently approximately 150 stables each year that remain out of compliance with the renewal requirement 60 days after the deadline;
- the late and reinstatement fees are first imposed with respect to the June 2025 license renewals;
- the late/reinstatement fees reduce the number of late renewals to 100 in 2025, 75 in 2026, and 50 in following years; and
- each of those late renewals pay at least a \$100 late fee (if not a higher reinstatement fee), assuming MHIB establishes such fees in regulation.

Instituting the late and reinstatement fees may also cause some amount of renewal fee revenues to shift among fiscal years, due to the late/reinstatement fees causing more licensees to pay their renewal fees before the June 30 deadline rather than after. Presumably, however, those renewal fee revenues are just shifted and there is no significant net impact on renewal fee revenues overall.

Administrative Penalties – Beekeeper Regulation and Nutrient Management Plans

General fund revenues increase minimally beginning in fiscal 2025 due to the bill's changes to the administrative penalty provisions relating to the registration of beekeepers. MDA advises that the intent of these changes is to encourage compliance and estimates that there will likely be few administrative penalties assessed under the bill's changes.

With respect to the bill's changes to the administrative penalty provisions relating to the submission of nutrient management plan summaries or AIRs, MDA does not expect to issue additional administrative penalties under the bill. Even so, to the extent that additional

administrative penalties are issued, general fund revenues may increase minimally beginning in fiscal 2025.

Additional Comments: This analysis assumes that, with respect to the Weights and Measures Program, the bill’s requirement that the fees charged be set to produce funds to approximate the cost of “registering” each weight and measure for commercial purposes is intended to encompass broader program costs.

Additional Information

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

Designated Cross File: SB 278 (Chair, Education, Energy, and the Environment Committee)(By Request - Departmental - Agriculture) - Education, Energy, and the Environment.

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

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of Agriculture - Licensing, Registration, Fees and Penalties,
and Regulation

BILL NUMBER: HB0234

PREPARED BY: Rachel Jones

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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