

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE

House Bill 350 (Delegate Shank, *et al.*)
 Ways and Means

Sales and Use Tax - Exemptions - Motor Oil and Fencing Materials for Farm Use

This bill exempts from the sales and use tax the sale of motor oil for use in farm equipment or a farm tractor, and tangible personal property purchased for use by a farmer or by a contractor under contract with a farmer for the construction, maintenance, or repair of fencing on a farm, if the buyer intends to incorporate the tangible personal property as part of the fencing.

The bill takes effect July 1, 2001.

Fiscal Summary

State Effect: General fund revenues could decrease by approximately \$451,300 in FY 2002. Future year losses assume increases in costs of the exempted goods but decreases in the number of farms.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF Revenue	(\$451,300)	(\$462,100)	(\$473,000)	(\$484,300)	(\$495,800)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$451,300)	(\$462,100)	(\$473,000)	(\$484,300)	(\$495,800)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Sales to a farmer of replacement parts and hydraulic oil for qualifying equipment are exempt from the sales tax. Motor oil, however, is subject to the sales tax because it is used generally and not just for farm use. Sales of hand tools, carpentry, cleaning and maintenance supplies, materials to be incorporated into realty, and items for personal use do not fall within the meaning of farm equipment. Therefore, fencing materials purchased by a farmer are subject to the tax. "Retail sale" is defined to include a sale of tangible personal property for use or resale in the form of real estate by a builder, contractor, or landowner. Under this provision, fencing materials purchased by a contractor are subject to the tax as well.

State Revenues: Based on data from the Farm Production Expenditures Survey produced by the U.S. Department of Agriculture and the Maryland Department of Agriculture, it is estimated that in 1999, an average of \$2,232 was spent per farm in the Northeast region on motor fuels and oil. Assuming that 10% of this expenditure represents the purchase of oil and that the cost increases by 5% per year, then \$234 would have been spent on oil products in 2000.

The average cost for farm improvements and construction, which includes the new construction and repair of building and fencing materials, was \$4,464 per farm in the Northeast region in 1999. Assuming an increase of 5% per year for the cost of these expenditures and assuming that fence-related materials is 10% of this category, then the average expenditure would be \$469 in 2000. It is assumed that the number of farms declines about 2.5% per year consistent with the average over the last six years.

The estimated revenue decrease is illustrated in **Exhibit 1**.

Exhibit 1 HB 350 - Estimated Revenue Decrease

<u>Calendar Year</u>	<u>Number of MD Farms</u>	<u>Avg. Annual Costs for Oil</u>	<u>Avg. Annual Costs for Fence Materials</u>	<u>Total Costs Exempted</u>	<u>Revenue Loss at 5%</u>
2002	11,788	\$258	\$517	\$9,132,545	\$456,627
2003	11,493	271	543	9,349,443	467,472
2004	11,206	284	570	9,571,492	478,575
2005	10,926	299	598	9,798,815	489,941
2006	10,652	314	628	10,031,537	501,577

Fiscal year impact (assumes expenditures would be evenly distributed throughout the year.)

<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>
451,331	462,050	473,023	484,258	495,759

Additional Comments: It should be noted that the exemption is permitted for tangible personal property that the farmer intends to incorporate as part of the fencing. If the farmer's intentions change after purchasing the materials and they are used in another project, it is unclear as to whether the farmer must remit the tax or if the purchase is still exempt because, at the time of purchase, the farmer harbored the intent to use the materials in a fence. Intent is not used in any other provision of this section providing for exemptions from the sales and use tax for agricultural purposes.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Maryland Department of Agriculture, U.S. Department of Agriculture, Department of Legislative Services

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ef/jr

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