

**Department of Legislative Services**  
 Maryland General Assembly  
 2008 Session

**FISCAL AND POLICY NOTE**

House Bill 214 (Chair, Health and Government Operations Committee)  
 (By Request – Departmental – Health and Mental Hygiene)

Health and Government Operations

Finance

**Bottled Water - Standard of Identity and Labeling Requirements - Out-of-State  
 Registration of Bottled Water and Soft Drinks**

This departmental bill alters the definition of “bottled water” to encompass any water in sealed packages offered for human consumption, including mineral water. Any type of bottled water has to meet the federal standard of identity and labeling for bottled water under the Code of Federal Regulations. The Department of Health and Mental Hygiene must adopt regulations to meet the federal requirements by October 1, 2008. Finally, the bill changes the procedure regarding filtration and disinfection treatment waivers and eliminates the registration requirement for out-of-state bottled water and soft drink suppliers.

**Fiscal Summary**

**State Effect:** General fund revenues related to the elimination of out-of-state registration fees could decrease by \$82,500 in FY 2009. Future year revenues reflect annualization. Due to the redirection of staff and resources to other programs, general fund expenditures could decrease minimally in FY 2009 and future years.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	(\$82,500)	(\$110,000)	(\$110,000)	(\$110,000)	(\$110,000)
GF Expenditure	(-)	(-)	(-)	(-)	(-)
Net Effect	(\$82,500)	(\$110,000)	(\$110,000)	(\$110,000)	(\$110,000)

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

**Local Effect:** None.

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

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## Analysis

**Bill Summary:** A bottler has to renew the waiver of filtration and disinfection treatment on an annual basis in order to continue operating. The bottler's representative has to certify that the conditions on which the waiver was granted have not changed and is obligated to notify DHMH within five days from the date of any change.

**Current Law:** Bottled water means any water that is sealed in bottles or other containers for drinking, cooking, or other purposes which make it likely that the water will be ingested by humans. Different types of bottled water – artesian or purified for example – have various requirements in terms of source, physical properties, and labeling.

A soft drink or bottled water that is manufactured outside the State has to be registered with DHMH before it may be sold in Maryland. To qualify for soft drink registration, an applicant must assure DHMH that the soft drink is manufactured under substantially similar standards to those required of soft drinks manufactured in this State. To qualify for bottled water registration, an applicant has to submit to DHMH a statement of acceptability issued by the appropriate approving authority of the state where the water was collected.

Bottled water must be obtained from an approved source and undergo filtration, disinfection, or any other treatment necessary for the water to meet set standards. However, DHMH may grant a waiver of the filtration and disinfection treatment if it is satisfied that filtration and disinfection treatment are unnecessary to comply with standards. Once a waiver has been granted, a bottler has to submit an annual report to DHMH that demonstrates continued compliance of the source and the product with the Codex Alimentarius standards by • testing and approval of the source and product at least once every two months; • specific microbiological testing; and • an annual inspection by an independent organization acceptable to DHMH that demonstrates compliance with specified practices and federal requirements for the collection, processing, and marketing of natural mineral water.

**Background:** Bottled water in the United States is regulated by the Food and Drug Administration. The Code of Federal Regulations establishes a standard identity and quality for bottled water. FDA defines “bottled water” as water that is intended for human consumption and is sealed in bottles or other containers with no added ingredients except for safe antimicrobial agents and fluoride in limited amounts. Artesian, artesian well, ground, mineral, purified, sparkling, and spring bottled water are all identifiable

types of bottled water under FDA regulations. Labels must include – among other things – every ingredient used.

The original State bottled water law predates federal standards. Consequently, State law is inconsistent with the federal standard of identity for bottled water. Further, federal law governing the labeling of bottled water preempts state law so that the interstate commerce of food is not disrupted.

**State Revenues:** DHMH advises that it collects \$110,000 per year in out-of-state registration fees on soft drinks and bottled water. Fees for out-of-state bottled water suppliers are \$50 per type of bottled water. Fees for each soft drink flavor supplied by out-of-state suppliers are also \$50. DHMH estimates that 215 out-of-state suppliers pay the \$50 fee, totaling \$107,500. The remaining \$2,500 is attributable to fees assessed on suppliers providing multiple soft drink flavors and types of bottled water. These fees are collected throughout the year; thus, due to the bill's October 1 effective date, general fund revenues would decrease by only \$82,500 in fiscal 2009. Annually thereafter, however, general fund revenues would decrease by \$110,000.

**State Expenditures:** DHMH advises that activities related to managing out-of-state registration total \$48,000 per year. In addition, DHMH advises that the permits and licensing costs of this activity total \$21,000 per year. The workload related to these activities is distributed across multiple staff members within the Division of Food Control. Halting these out-of-state activities would allow staff and resources estimated to total \$69,000 per year to be redirected to other programs. However, Legislative Services advises that only a small portion of the \$21,000 could actually be recouped by halting the issuance of licenses which incur tangible administrative costs. Therefore, quantifiable general fund expenditures would decrease minimally.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 1, 2008  
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