

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 1137 (Delegate Shewell, *et al.*)
 Environmental Matters

Agriculture - Prohibited Acts - Force-Feeding Birds

This bill prohibits a person from force-feeding a bird to produce foie gras. In addition, a person may not sell, transport, or offer for sale any product that is the result of force-feeding a bird to produce foie gras and a food service or drinking establishment may not serve or dispense any product that is the result of force-feeding a bird. A person who knowingly violates the bill’s prohibitions is guilty of a misdemeanor and, on conviction, subject to a fine of up to \$1,000 for each day a violation occurs.

The bill takes effect June 1, 2008.

Fiscal Summary

State Effect: General fund expenditure increase of \$210,580 in FY 2009 for enforcement. Future year expenditure estimates reflect annualization, salary increases, and inflation. Potential minimal increase in general fund revenues due to the bill’s penalty provision.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	-	-	-	-	-
GF Expenditure	210,600	156,600	163,500	171,200	179,200
Net Effect	(\$210,600)	(\$156,600)	(\$163,500)	(\$171,200)	(\$179,200)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: State law does not address the production, sale, or transport of foie gras nor does it address the force-feeding of birds. State law does specify various crimes relating to animals including depriving an animal of necessary sustenance or inflicting unnecessary suffering or pain on an animal.

The Department of Health and Mental Hygiene licenses and inspects food establishments and engages in various other efforts relating to the safety and quality of food in the State.

The Secretary of Agriculture is responsible for carrying out and enforcing the provisions of the Agriculture Article.

Background: According to the American Veterinary Medical Association (AVMA), foie gras (fatty liver) is a food product traditionally produced using geese, but is now more commonly produced using duck. In the United States, foie gras is sold predominantly in restaurants, supplied mostly by domestic farms. American farms produced 340 tons of foie gras in 2003.

AVMA reports that in many countries foie gras production has been banned on animal welfare grounds and that the production or sale of foie gras may be limited in some jurisdictions in the U.S. California has enacted a ban on the force-feeding of birds (including ducks and geese) that will take effect in 2012 and the City of Chicago has banned foie gras from being sold in any food dispensing establishment.

State Fiscal Effect: Given that MDA is not currently involved in inspecting food establishments, general fund expenditures could increase by an estimated \$210,580 in fiscal 2009, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring a part-time field veterinarian (to supervise the program) and one agricultural inspector, a part-time laboratory scientist, and one investigator (to implement an inspection and enforcement program). It includes salaries, fringe benefits, one-time start-up costs (including costs to purchase a machined used to determine animal DNA in a product), and ongoing operating expenses.

Positions	2.5
Salaries and Fringe Benefits	\$106,824
Equipment	100,000
Operating Expenses	<u>3,756</u>
Total FY 2009 State Expenditures	\$210,580

The estimate assumes that MDA would inspect affected food service and retail establishments, test products, conduct investigations, and perform follow-up enforcement actions as necessary. In addition, the estimate assumes, given the bill's language, that the bill would not only apply to foie gras, but also to any other parts of affected birds and products made from those parts, such as hot dogs, sausage, canned meat, baby food, and pet foods.

Future year expenditures reflect • full salaries with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

General fund revenues could increase minimally under the bill's monetary penalty provision for those cases heard in the District Court.

Small Business Effect: MDA indicates that there are no known producers of foie gras in Maryland, though the bill would have a moderate impact on small businesses involved in the wholesale, distribution, transportation, and retail sale of affected food products (including small, family owned specialty food shops and restaurants), requiring alteration of business practices and potentially driving sales to merchants outside of the State. According to the U.S. Census Bureau's 2001 *Survey of U.S. Businesses*, 90.9% of accommodation and food services firms in Maryland had less than 50 employees. The number of potentially affected food service and retail businesses, however, is unknown.

Additional Information

Prior Introductions: None.

Cross File: SB 599 (Senator Conway, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene, Maryland Department of Agriculture, Office of the Attorney General (Consumer Protection Division), Maryland State's Attorneys' Association, American Veterinary Medical Association, U.S. Census Bureau, Department of Legislative Services

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mll/lgc

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510