

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 1070 (Delegate Shank, *et al.*)  
Health and Government Operations

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Farmer's Markets - Sale of Poultry and Rabbits

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This bill prohibits local jurisdictions from requiring a license for the sale of poultry or rabbit products at a farmer's market if the farm on which the poultry or rabbit was raised is exempt from regulation by the U.S. Department of Agriculture (USDA).

Additionally, the bill specifies that a license or permit is not required to deliver prepackaged foods to fill an order for a customer.

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Fiscal Summary

**State Effect:** None. Current regulations permit the sale of federally exempt poultry and rabbit products at farmer's markets.

**Local Effect:** Potential minimal increase in fine revenues and enforcement expenditures for local health departments (LHDs). Licensing revenues are unaffected as local jurisdictions do not issue licenses for the sale of poultry or rabbit products at farmer's markets.

**Small Business Effect:** Meaningful for farmers who are exempt from federal regulation.

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Analysis

**Bill Summary:** A "poultry product" means any whole carcass of a bird. A "rabbit product" means any whole carcass of a rabbit. A poultry or rabbit product must be raised in accordance with the Maryland Poultry Products Inspection Act. A rabbit or poultry product must be owned, raised, slaughtered, and processed by the seller.

**Current Law:** Farmer's markets are regulated under the Code of Maryland Regulations provisions applicable to the Department of Health and Mental Hygiene (DHMH). Current regulations permit the sale of rabbit and poultry products at farmer's markets when the product is not under the jurisdiction of USDA and the product is inspected and regulated by the Maryland Department of Agriculture (MDA), USDA, or an approving authority under a voluntary inspection program. Products must originate from animals that are commercially raised, fed, or managed on the farm, and slaughtered and processed in accordance with the Poultry Products Inspection Act, and applicable federal, State, and local regulations. Regulations identify poultry as a domesticated bird whether live or dead including a chicken, turkey, duck, goose, guinea, ratite, or squab and migratory waterfowl or game birds whether live or dead including a pheasant, partridge, quail, or grouse. Provisions regarding poultry products also apply to rabbits and rabbit products. Neither USDA nor MDA has a voluntary inspection program in place for federally exempt farmers; however, MDA is in the process of developing such a program.

Licenses for farmer's markets are administered by LHDs. The majority of counties do not require a license for the sale of fresh farm produce, herbs, cut flowers, and bedding plants in a farmer's market. However, some counties require a license to sell produce at a farmer's market. In certain counties, licenses are only good in one location within that jurisdiction. Overall, there is extensive variation across counties regarding licenses for farmer's markets. Farmers who choose to sell produce at farmer's markets in different jurisdictions have to pay numerous licensing fees. LHDs currently inspect farmer's markets in accordance with the regulations established by DHMH.

**Background:** Farmers will not be able to sell products until an inspection program is in place. MDA advises that training for farmers who wish to participate in a voluntary inspection program will begin in April or May of 2010. Under current regulations, DHMH advises that farmers who participate in MDA's voluntary inspection program would not be subject to additional inspection requirements from the department. Enforcement would be done through LHDs.

MDA estimates 110 farmer's markets operate in the State with an average of 10 vendors per market. The majority of vendors participate in more than one market. However, MDA is unsure how many farmer's market vendors are subject to licensing fees. Most markets open around May 1, and customers can purchase a variety of locally grown produce including fruits, vegetables, herbs, eggs, meats, baked goods, and cheeses. Farmer's markets are an important source of income for farmers and an important component in securing a sustainable future for Maryland agriculture.

Approximately 286 farmers in the State participate in the Farmer's Market Nutrition Program (FMNP) in which a total of \$600,000 in checks are available for eligible

women, infants, children, and seniors to purchase fresh produce at farmer's markets. FMNP represents an additional source of income for local farmers.

**Small Business Effect:** According to MDA, approximately 200 poultry and rabbit producers are exempt from USDA regulations.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 912 (Senator Brinkley, *et al.*) - Finance.

**Information Source(s):** Carroll and Montgomery counties, Maryland Department of Agriculture, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 2010  
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Analysis by: Erin McMullen

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