

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

Revised

House Bill 421

(Chair, Environmental Matters Committee)(By Request -
 Departmental - Agriculture)

Environmental Matters

Education, Health, and Environmental Affairs

**Department of Agriculture - Advertising Agricultural Products as Locally Grown
 - Regulatory Authority**

This departmental bill authorizes the Secretary of Agriculture to adopt standards to regulate the use of the terms “locally grown” and “local” to advertise or identify an agricultural product and prohibits a person from knowingly advertising or identifying any agricultural product in violation of those standards. Before adopting the standards, the Secretary must convene and consult with an advisory group of interested stakeholders, including representatives from organizations that represent farmers, food distributors, retail stores, food service industries, and restaurants, to determine the definition of the term “locally grown.”

Fiscal Summary

State Effect: Any costs associated with implementing the regulatory program are expected to be handled within existing budgeted resources. Criminal penalties applicable to violations of the bill’s prohibition are not expected to significantly affect State finances or operations.

Local Effect: Criminal penalties applicable to violations of the bill’s prohibition are not expected to significantly affect local finances or operations.

Small Business Effect: The Maryland Department of Agriculture (MDA) has determined that this bill has minimal or no impact on small business (attached). Legislative Services generally concurs with this assessment, noting, however, that MDA has indicated farmers (most of whom are small businesses) may benefit to the extent the bill enables them to more fully capitalize on the growing demand for locally produced food. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law/Background: MDA does not currently regulate the advertising or identification of agricultural products as “locally grown” or “local.”

A 2009 statewide public opinion survey covering various policy issues found that 78% of Marylanders are more likely to select fresh fruit, vegetables, or other farm products in their local grocery store if the products are identified as grown by a Maryland farmer. MDA indicates that “as the interest in ‘locally grown’ products continues, so does the increase in advertising of products as locally grown.” MDA, however, indicates that advertising, particularly in retail stores, can be unclear and cites anecdotal accounts of products likely transported significant distances being advertised as locally grown.

Similar issues occurred several years ago regarding the term “organic,” and eventually federal legislation was passed to address the definition of “organic.” MDA advises the same issue needs to be addressed regarding the term “locally grown” so that consumers are not misled. According to MDA, there is no indication the federal government will take up the issue.

While MDA does not currently regulate the advertising or identification of agricultural products as “locally grown” or “local,” the department is involved in facilitating sales of Maryland agricultural products locally, nationally, and internationally through its Office of Marketing, Animal Industries, and Consumer Services. Programs that facilitate local sales of agricultural products include the Maryland’s Best Program, which links Maryland farmers with consumers through the program’s web site, promotions, and advertising, and the Jane Lawton Farm-to-School Program (created under Chapters 371/372 of 2008), which facilitates the sale of farm products grown in the State to Maryland schools.

Generally any person who violates any provision of the Agriculture Article is guilty of a misdemeanor, and unless another penalty is specifically provided, is subject to a fine of up to \$500 and/or imprisonment for up to three months. Any person found guilty of a second or subsequent violation is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; Schaefer Center for Public Policy, University of Baltimore, *Maryland Policy Choices: 2010* (November 2009); Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2010
ncs/lgc Revised - House Third Reader - March 18, 2010
Revised - Enrolled Bill - April 21, 2010

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of Agriculture – Advertising Agricultural Products as
Locally Grown – Regulatory Authority

BILL NUMBER: HB 421

PREPARED BY: Maryland Department of Agriculture

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

The proposed legislation will have no impact on small business in Maryland.