

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 193

(Senator Young, *et al.*)

Education, Health, and Environmental Affairs

Environmental Matters

Agriculture - Maryland Standard of Identity for Honey

This bill establishes a Maryland standard of identity for honey and requirements applicable to the labeling of honey. The Maryland Department of Agriculture (MDA) is not required to enforce the bill's provisions, but the bill authorizes an action to be filed in circuit court by specified persons and entities, including the Attorney General.

Fiscal Summary

State Effect: Because the bill authorizes, but does not require, the Attorney General to file an action in circuit court to enforce the bill, it is assumed that the Office of the Attorney General would not actively enforce the bill and that any actions undertaken could be handled with existing budgeted resources. Any criminal penalties imposed for violations of the bill are not expected to materially affect State finances or operations.

Local Effect: Any criminal penalties imposed for violations of the bill are not expected to materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill establishes a Maryland standard of identity for honey and various criteria that must be met in order for a product to meet the standard. The standard applies to (1) all honey produced by honey bees from nectar; (2) all styles of honey presentation that are processed and ultimately intended for direct consumption; and (3) all honey packed, processed, or intended for sale in bulk containers as honey that may be repacked for retail sale or for use as an ingredient in other foods.

A product that conforms to the standard of identity for honey may be designated as “honey.” If a food product contains ingredients in addition to honey, or if processing materially changes a material characteristic of pure honey, the name of the product must distinguish the product from pure honey and designate the food additive or modification. The bill also authorizes certain specific designations to identify certain types of honey, subject to specified requirements in some cases.

An action to enforce the bill may be filed in circuit court by (1) a beekeeper or an association of beekeepers; (2) a honey packer or an association of honey packers; (3) a honey producer or an association of honey producers; or (4) the Attorney General. If the court determines that a violation exists, it may order appropriate relief, including an order to enjoin a producer, manufacturer, or distributor from distributing in the State a product designated as “honey” if the product does not conform to the Maryland standard of identity for honey.

MDA is not required to enforce the bill’s provisions.

Current Law: The Secretary of Agriculture has specified authority under State law to certify farm products, including honey. The Secretary is authorized, when requested by a person financially interested in a farm product, to examine the product on the basis of MDA or U.S. Department of Agriculture (USDA) standards and provide the person with an official certificate.

Pursuant to provisions under Title 5 (“Pesticide and Pest Control”) of the Agriculture Article, the Secretary is required to inspect apiaries (places where one or more bee colonies may be maintained) and honey houses (structures where honey is extracted and processed for sale), and a beekeeper must register annually with MDA each colony maintained. The Secretary has specified authority to address colonies or bee equipment infected with an infectious bee disease, and specified documentation and permitting requirements apply to colonies or used bee equipment shipped or transported into the State.

Under the Agriculture Article, a person who violates a provision of the 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. A 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.

Background: Honey is produced in every state and a significant amount of honey is also imported. Concern exists about adulterated and contaminated honey, largely, but not exclusively, with regard to imported honey. Adulterants such as corn sugar, cane sugar, high fructose corn syrup, and water may be added to honey to increase profit, and

pesticides and antibiotics may be present in honey because of bad manufacturing practices. There is currently no mandatory federal or State standard for honey. The bill's provisions reflect a standard developed by the Maryland State Beekeepers Association (MSBA).

MDA's Food Quality Assurance Program offers voluntary certification to producers and processors for agricultural commodities such as eggs, poultry, meat, grain, fruits, and vegetables to USDA and/or MDA standards. MDA does not currently certify honey. MDA also enforces mandatory standards for eggs under the Maryland Egg Law.

The Department of Health and Mental Hygiene licenses and inspects food establishments (food service facilities and food processing plants) and engages in various other efforts relating to the safety and quality of food in the State.

Small Business Effect: Small businesses in the honey industry may benefit from the establishment of the standard of identity for honey under the bill and the authorization for specified persons and entities to file an action in court to enforce the bill. Efforts to establish standards for honey are intended, at least in part, to protect producers, whether large or small businesses, that are producing unadulterated honey that meets established standards. MDA indicates that there are 1,530 beekeepers registered with the department that are considered small businesses.

In addition to producing honey, MSBA indicates that many small business honey producers also provide pollination services to the agricultural community in the State and their increased viability could have a broader, beneficial effect on small business farms that benefit from those services.

Legislative Services notes, however, that the State will not be obligated to actively enforce the bill, potentially lessening any benefit to small businesses.

Additional Information

Prior Introductions: HB 809 of 2011 passed the House and received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. HB 1553 of 2010, a similar bill which required MDA to adopt regulations to establish honey standards, received a hearing in the House Environmental Matters Committee, but no further action was taken.

Cross File: HB 159 (Delegate Afzali, *et al.*) - Environmental Matters.

Information Source(s): Maryland Department of Agriculture, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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