

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 351 (Senator Gallion, *et al.*)
 Education, Health, and Environmental Affairs

Agriculture - Farmers Markets - Advertising, Labeling, and Enforcement
 (Farmers Market Integrity Act)

This bill prohibits (1) the use of the term “farmers market” to describe a market or other sales location that does not meet a specified definition and (2) the sale of farm and food products at a farmers market that do not meet specified standards relating to the products being grown or processed by the seller or purchased by the seller directly from another farmer. The bill establishes enforcement provisions, criminal fines, and a Farmers Market Review Panel to review appeals of fines.

Fiscal Summary

State Effect: General fund expenditures increase by \$61,100 in FY 2021; future years reflect annualization and ongoing costs. General fund revenues may increase to the extent monetary penalties are collected under the bill.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	-	-	-	-	-
GF Expenditure	\$61,100	\$72,600	\$74,100	\$76,400	\$78,700
Net Effect	(\$61,100)	(\$72,600)	(\$74,100)	(\$76,400)	(\$78,700)

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Use of the Term “Farmers Market”

The bill prohibits a person from using the term “farmers market” to describe a market or other sales location that does not meet the definition of a farmers market under the bill. “Farmers market” is defined as a building, structure, or place used by two or more people for the direct sale of farm and food products to consumers. “Farm and food products” is defined as any agricultural, horticultural, forest, or other product of the soil or water, including various specified products.

Farm and Food Products Sold at a Farmers Market

The bill also prohibits a person from selling farm and food products at a farmers market unless:

- at least 75% of the products offered by the person were grown or processed by the person or under the supervision of the person; or
- the farm and food product is (1) purchased directly from another farmer who grew and processed the farm and food product and (2) individually labeled or otherwise identified with the name and location of the farm at which the farm product was grown and processed.

Authorization of More Stringent Requirements

The bill authorizes a person operating or coordinating a farmers market to impose more stringent requirements than those established by the bill.

Enforcement

The Maryland Department of Agriculture (MDA) may request proof of origin of a farm and food product being sold at a farmers market to ensure the farm and food product meets the bill’s requirements. Failure to provide written documentation or other reasonable proof of the origin of a farm and food product is *prima facie* evidence that a person is in violation of the bill.

A person who violates a provision of the bill is guilty of a misdemeanor and subject to a fine of at least \$100 and up to \$200 for each violation. A person may appeal a fine to the Farmers Market Review Panel (discussed below).

Farmers Market Review Panel

The bill establishes a Farmers Market Review Panel, consisting of three MDA staff, one farmer, and one individual who communicates with the community on behalf of the farm community. MDA must provide staff for the panel. A member of the panel may not receive compensation as a member of the panel but is entitled to reimbursement for expenses.

The panel's duties are to (1) review an appeal of a fine for a violation of the bill within 30 days after receiving notice of the appeal and (2) make a decision on an appeal within 30 days after its review of the appeal.

Current Law/Background: MDA indicates there are 109 farmers markets listed in the department's directory of farmers markets. In addition, there are approximately 200 farm stands in the State, which may use the term "farmers market" to describe their operations. Some grocery stores and other food businesses may also use the term "farmers market" to describe their business or parts of their business.

MDA indicates that its Farmers Market Nutrition Program (FMNP) has requirements in its agreement with the U.S. Department of Agriculture (USDA) to allow farmers who register for the program to grow 60% of what they sell to FMNP clients. Under the program, USDA gives grants to state agencies to provide checks to low-income participants that can be used to buy fresh fruits, vegetables, and cut herbs (and honey for seniors only) at Maryland farmers markets. MDA indicates that the FMNP program does not regulate farmers markets, but instead certifies farmers. As part of MDA's 2020 FMNP State Plan, MDA will randomly visit registered farms to make sure they are in fact farms and grow enough produce to meet applicable requirements.

State Expenditures: General fund expenditures increase by \$61,052 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. This estimate reflects the cost of hiring one agricultural inspector within MDA to enforce the bill, including locating and traveling to the various locations that may be using the term "farmers market" to ensure the term is only being used as allowed under the bill and to ensure sellers at farmers markets are meeting the bill's requirements. MDA does not have current staff available to assume those responsibilities. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position(s)	1
Salaries and Fringe Benefits	\$49,096
Operating Expenses	<u>11,956</u>
Total FY 2021 State Expenditures	\$61,052

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Implementation of the Farmers Market Review Panel is expected to be handled with existing resources, with the exception of minimal travel expenses for the two non-MDA members.

Small Business Effect: The bill may meaningfully affect small businesses using the term “farmers market” and those selling farm and food products at farmers markets, potentially (1) benefitting those that currently comply with the bill’s requirements to the extent the bill increases their share of the market for farm and food products sold at farmers markets and (2) disadvantaging those who do not comply with the bill’s requirements and experience reduced marketing opportunities and/or reduced sales.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Agriculture; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Legislative Services

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mr/lgc

Analysis by: Scott D. Kennedy

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