

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1025 (Delegate Terrasa)
 Environment and Transportation

Pesticides – Carbofuran – Collection, Disposal, and Prohibition on Possession or Storage

This bill requires the Maryland Department of Agriculture (MDA), in coordination with the Department of Natural Resources (DNR), to establish a program to collect and destroy, in accordance with best management practices, all quantities of the pesticide carbofuran by 2023. Beginning January 1, 2024, a person may not possess or store any quantity of carbofuran in the State. The bill establishes criminal penalties for violations.

Fiscal Summary

State Effect: General fund expenditures increase by \$89,100 in FY 2022, with ongoing, but reduced, costs through FY 2024. Revenues are not materially affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	89,100	53,400	48,200	0	0
Net Effect	(\$89,100)	(\$53,400)	(\$48,200)	\$0	\$0

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

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Carbofuran” means a pesticide (1) for which the federally approved uses were voluntarily canceled in 2009 after the U.S. Environmental Protection Agency (EPA) concluded that dietary, worker, and ecological risks were unacceptable for all uses; (2) that

was commonly marketed under the trade name Furadan; and (3) that has been implicated in the killing of wildlife.

The bill requires MDA, in coordination with DNR, to establish a program to address the illegal use of carbofuran in the State and eliminate stockpiles of carbofuran in the State. The program must (1) require that all quantities of carbofuran be collected by 2023; (2) ensure that all quantities of carbofuran that are collected or seized under the bill are destroyed in accordance with best management practices under MDA's pesticide disposal program; and (3) set forth enforcement procedures to address violations.

Beginning January 1, 2024, a person may not possess or store any quantity of carbofuran in the State. The Secretary of Agriculture, the Secretary of Natural Resources, or a Natural Resources police officer may seize any quantity of carbofuran to enforce this prohibition. A person who violates the prohibition is guilty of a misdemeanor and subject to a \$1,500 maximum fine. A person who commits a second or subsequent violation is guilty of a misdemeanor and subject to imprisonment for up to one year and/or a \$4,000 maximum fine.

MDA, in coordination with DNR, must adopt regulations to carry out the bill.

Current Law: The Secretary of Agriculture is required to take various actions to regulate pesticide use, including (1) adopting rules and regulations governing the storage, sale, distribution, exchange, use, and disposal of any pesticide and its container and (2) prescribing, when necessary, the time and conditions under which a pesticide may be sold, distributed, exchanged, or used in different areas of the State. MDA regulations require that a person observe all precautions in the handling, use, storage, and disposal of pesticides, so that nontarget areas or organisms, including humans, do not suffer injury, and unreasonable adverse effects on the environment do not occur or are minimized.

Generally, to be sold, distributed, or used in Maryland, a pesticide must be registered by both MDA and EPA.

State Fiscal Effect: General fund expenditures for MDA increase by \$89,129 in fiscal 2022, which accounts for the bill's October 1, 2021 effective date. This estimate reflects (1) the cost to hire one contractual inspector to assist current MDA staff in the identification, sampling, and collection of carbofuran and (2) contractual services for pesticide disposal. The estimate includes a salary, fringe benefits, one-time start-up costs (including a vehicle), and ongoing operating expenses.

Contractual Position	1.0
Salary and Fringe Benefits	\$89,129
Vehicle	25,000
Pesticide Disposal	20,000
Operating Expenses	<u>16,881</u>
Total FY 2022 State Expenditures	\$89,129

Existing staff cannot absorb all of the work needed for a properly functioning collection and disposal program. MDA advises that it does not currently maintain a pesticide disposal program; the last such program operated in 2011 with a contract cost of \$24,500 to dispose of a known quantity of pesticides. Given that EPA prohibited the *use*, but not the *possession*, of carbofuran in 2009, it is unknown how much carbofuran may still be stored throughout the State.

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses through fiscal 2024. With collection of all quantities of carbofuran required to be completed by 2023, it is assumed, for the purposes of this fiscal and policy note, that the costs of the program beyond fiscal 2024 can be absorbed with existing resources. It is also assumed that DNR can coordinate with MDA as needed using existing resources.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

The bill’s penalty provisions are not expected to materially affect State finances.

Small Business Effect: Small businesses that possess carbofuran may benefit from the ability to dispose of it, at no cost, under the program, but are also subject to penalties beginning January 1, 2024, for any remaining possession on or after that date.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Montgomery and Prince George’s counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of Agriculture; Department

of Natural Resources; Department of Public Safety and Correctional Services; Department of Legislative Services

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Analysis by: Tyler Allard

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