



# Maryland Department of Agriculture

*Office of the Secretary*

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## Maryland Department of Agriculture Legislative Comment Date: January 23, 2024

**BILL NUMBER:** Senate Bill 278  
**SHORT TITLE:** Department of Agriculture - Licensing, Registration, Fees and Penalties, and Regulation

**MDA POSITION:** Support

The Maryland Department of Agriculture (The Department), has proposed the following legislation. SB 278 would have a direct impact on programs that The Department regulates. This bill allows the Department to establish registration fees, late penalty fees, and modify penalty fee structures for four MDA programs or units: Nutrient Management, Weights and Measures, State Apiarist, and the MD Horse Industry Board. This legislation will increase agency efficiency, reduce administrative burden, allow specially funded programs to have adequate funding for staff, and incentivize greater compliance for those currently non-compliant with existing state law.

The background for the MDA departmental bills is as follows:

**Nutrient Management Plan penalty-** The proposed legislation would alter the penalty if a farmer submits their Annual Implementation Report (AIR) after the deadline. The AIR is a report documenting nutrient applications and is due to the Nutrient Management Program by March 1 annually. The bill increases the administrative penalty to not less than \$1000. It is currently up to \$1000.

### **Background:**

This will incentivize farm operators to report their nutrient management and help ensure that they are implementing best management practices in order to meet Chesapeake Bay Goals and Climate Change Solutions Now Act of 2022. In 2023, the compliance rate (outlined below) shows that for the 120 day notice cycle, a final 61 operators were sent to collections at the current penalty of not less than \$1000.

### **March 1 – AIRs Due to Department**

**May 5 th - AIR warning - 30 day - 729 operators**

**June 23 rd – 2 nd AIR Warning – 60 day - 316 operators**

**July 28 th – 3 rd AIR Warning – 90 day - 159 operators**

**Sept 22 nd – NOAA Charge - 87 operators**

**Nov 17 th – NOD – 61 operators sent to collections**

The current tiered penalty begins at \$250 at the 30 day notice mark and increases to no less than \$1000 after 120 days. This bill removes the tier and after 30 days the fee is automatically no less than \$1000. We estimate that we would cap the penalty fee at \$1500 or \$2000. This will reduce administrative burden on our program staff and incentivize greater compliance.

**Apiary Registration and Fee Bill-** The proposed legislation allows the Apiary program to request the use of fines, as determined by the Secretary of Agriculture, for beekeepers that do not register. Registration is required by law. Fines are also requested for beekeepers that do not follow instructions for destruction or removal of hives as required by law.

#### **Background:**

The **existing laws for apiary registration** (which is NO cost to the beekeeper) were put into effect so that in the event of a contagious disease outbreak (American Foulbrood) the MDA would be able to find/inspect/safeguard/notify beekeepers in the surrounding areas.

The **existing law that requires moveable and removable** frames allows for inspection of contagious disease or other health issues. An example of disease is American foulbrood, which requires destruction of the hive.

Registration of honey bee colonies and using removable frames in your colonies is important for the health of colonies and those colonies in surrounding areas. It would be impossible for proper health inspections to be performed if the location of colonies was not available, or if during an inspection the combs could not be removed and inspected. The instances of contagious disease in Maryland is low due to our inspection program. The MDA's inspection team is an important part of successful beekeeping and healthy honey bee colonies in Maryland.

The departmental bill requests penalties for beekeepers that do not register (registration is presently required by law) and do not use movable frames (movable frames are required by law). The requested penalties for not registering are:

1. 30 days following receipt of notice – administrative penalty of \$25
2. 60 days following receipt of notice – administrative penalty of \$50
3. 90 days following receipt of notice – administrative penalty of \$100

The requested penalties to a beekeeper for not providing movable frames for a colony are:

1. 30 days following receipt of notice – administrative penalty of \$25
2. 60 days following receipt of notice – administrative penalty of \$50

**Weights & Measures Fee** - The proposed legislation authorizes the Secretary to set by regulation reasonable fees for registering weights and measures (eliminating the fees set forth in law); Many of these fees have not been increased in decades. This legislation would allow The Department the discretion to increase necessary fees without requiring additional legislation in the future to do so.

**Background:**

At present, MDA Weights and Measures has a total of 6,311 business accounts registered. The current registration category for small scales is unfair to small business owners in the state of Maryland. Currently, a cap of \$325.00 is set in place for registration of scales 0-100 lbs. plus a \$50.00 registration fee. This means that a farmer registering one small scale used part of the year at a farmers market is paying \$70.00 ( \$20.00 scale + \$50.00 location fee) however a grocery store chain has locations with 68 scales registered and only pays a total of \$375.00. This bill allows the Secretary the discretion to set reasonable, equitable fees for registered devices.

**Weights & Measures Late Fee** - The proposed legislation also allows a person who has failed to register a weight and measure in a timely manner to renew the registration retroactively within 30 days under certain conditions including paying a late fee set by the Secretary.

**Background:**

Annually, new businesses open, expand, close, or decrease the number of devices by removing them from service. MDA estimates this bill would bring \$784,000 in revenue from penalty fees for locations delinquent in paying the required registration fees. This estimation is based on the number of delinquent accounts 30 days past due from the FY23 registration season. The revenue generated from collecting penalty fees may decrease once businesses know they will incur a late fee for non-payment.

The purpose of imposing a penalty is to cover the cost of inspectors having to travel to these locations to persuade the businesses to make payment, this is time consuming and pulls from the resources of the program and is unfair to the businesses that pay on time. Other variables include the requested registration of commercial electric vehicle chargers, these devices are being installed on a daily basis throughout the state. MDA based the fees generated by the EV chargers off the number of devices used in commercial transactions in Maryland during the summer of 2023. As more of these devices emerge in the field the number will continue to rise with the possibility of retail motor fuel devices starting to decline over the next 5 years. As retail motor fuel devices start to decrease in numbers, the Department will lose the revenue from these types

of devices. Salaries and benefits continue to increase and so does the cost of equipment and operations.

**Background:**

The MDA Weights and Measures program field staff and metrology lab operations is funded by revenue generated through the collection of device registration fees. The program has not had a fee increase since 2012. With the rising cost of fuel, salaries, benefits, equipment, and vehicles the program will not be able to continue to operate with the current fee structure. The program currently has 18 pins for field staff positions, with all positions having recently received reclassification with grade and step increases to stay current with inflation and competitive with private industry. The purpose of the Weights and Measures program is to ensure equity in the marketplace between businesses and consumers within the State of Maryland.

The top priority of the program is the investigation of consumer complaints with over 225 complaints investigated in FY 2023. Everyday Weights and Measures field staff are diligently working in the field to conduct complaint investigations, and inspect, test and certify the 63,000 devices registered within the state. The program ensures that every Maryland resident is receiving what they pay for at the gas pump, the farmers market, the deli, when buying a pound of hamburger, or when receiving a delivery of home heating fuel. With new technology such as electric vehicle chargers emerging in the marketplace the MDA Weights and Measures program is looking toward the future to continue to protect consumers that are charging their electric vehicles. The Weights and Measures program is a vital part of the Maryland Department of Agriculture Marketing, Animal Industries, and Consumer Services. Continuing to provide Maryland consumers and businesses with the outstanding service that they have come to expect is pivotal, therefore the ability to set reasonable fees for the program is imperative.

**Horse Industry Board Late Fee and Reinstatement Fee - Establishment** - allowing a horse establishment that has failed to renew its license in a timely manner to renew the license retroactively within 30 days under certain conditions including paying a late fee set by the Board; allowing a horse establishment to reinstate its license after 30 days under certain conditions including paying a reinstatement fee set by the Board;

Currently, approximately 150 stables out of 800 do not comply within 60 days. If we assess a \$100 late fee then we would collect approximately \$15,000 annually. However the late fee is intended to incentivize stables to license on time so that they won't pay a penalty at all.

The MHIB spends excessive administrative time and energy in an effort to increase compliance by sending multiple letters, making numerous phone calls, and in person visits to get entities to register in order for them to continue operating legally. The administrative burden is great.

If you have additional questions, please contact Rachel Jones, MDA Director of Government Relations at [Rachel.Jones2@maryland.gov](mailto:Rachel.Jones2@maryland.gov) or (667) 408-0134.