

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 690 (Senator Lewis Young)
 Education, Energy, and the Environment

Agriculture - Confinement of Egg-Laying Hens in Commercial Egg Production - Prohibitions

This bill prohibits, beginning in calendar 2015, knowing confinement of an egg-laying hen in an enclosure that is not a cage-free housing system and does not meet specified space requirements. The bill establishes a requirement for a farm owner or operator to obtain a certificate of compliance and prohibits the sale of shell eggs or egg products in violation of the bill’s prohibition or the certificate requirement. The Secretary of Agriculture must administer and enforce the bill’s provisions and adopt implementing regulations. Specified enforcement provisions are established. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: No effect in FY 2023. General fund expenditures increase by \$281,200 in FY 2024. Future years reflect annualization and inflation. General fund revenues may increase minimally beginning in FY 2025 due to the bill’s civil penalty provision.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	281,200	249,300	260,200	271,800	286,200
Net Effect	(\$281,200)	(\$249,300)	(\$260,200)	(\$271,800)	(\$286,200)

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

Local Effect: The bill does not directly affect local government finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Prohibition Against Specified Knowing Confinement of an Egg-Laying Hen

Beginning January 1, 2025, a farm owner or operator may not knowingly confine an egg-laying hen in an enclosure that (1) is not a cage-free housing system; (2) has less than one square foot of usable floor space per hen in a cage-free housing system that provides vertical space; or (3) has less than one and a half square feet of usable floor space per hen in a cage-free housing system that does not provide vertical space.

A “farm owner or operator” does not include an owner or operator of a farm that produces shell eggs from fewer than 3,000 egg-laying hens. A “cage-free housing system” means an indoor or outdoor controlled environment for egg-laying hens within which hens (1) are free to roam unrestricted; (2) are provided enrichments that allow the hens to exhibit natural behaviors, including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and (3) may be provided care by employees within the hens’ usable floor space. This includes multitiered aviaries, partially slatted systems, single-level all-litter floor systems, and any other system that meets the bill’s requirements.

An “egg-laying hen” means any living female domesticated bird kept for the purpose of commercial egg production. “Egg products” means raw or treated poultry eggs that have been removed from the shell, in liquid, solid, dried, or frozen form, and are intended for human food. The term does not include combination food products that are composed of more than just egg.

Certificate Requirement

In addition to the requirements under the Maryland Egg Law, beginning January 1, 2025, to sell shell eggs or egg products, a farm owner or operator must obtain a certificate from the Maryland Department of Agriculture (MDA) verifying that the shell eggs or egg products are produced in compliance with the prohibition against specified knowing confinement of an egg-laying hen, discussed above. If a farm owner or operator is required to obtain a certificate from MDA, a business owner or operator must obtain a copy of the certificate from the farm owner or operator before selling the shell eggs or egg products from that farm. MDA may not issue a certificate verifying compliance with the bill’s prohibition against knowing confinement unless the farm enclosures for the egg-laying hens have been inspected or verified in accordance with regulations adopted by the Secretary of Agriculture pursuant to the bill. A certificate issued by MDA under the bill expires at the end of each calendar year and must be renewed.

A business owner or operator must retain a copy of all certificates obtained pursuant to the bill and, on request, provide a copy of a certificate to MDA. It is a defense to any action to enforce the bill's provisions that a business owner or operator relied in good faith on a written certification obtained under the bill.

Prohibition Against Sale in Violation of Prohibition or Certificate Requirement

Beginning January 1, 2025, a business owner or operator or farm owner or operator may not sell shell eggs or egg products (1) that the owner or operator knows or should have known were produced by an egg-laying hen that was confined in a manner in violation of the bill's prohibition or (2) in violation of the certificate requirement.

Administration and Enforcement by Secretary

The Secretary must administer and enforce the bill's provisions and must adopt regulations to carry out the bill. The regulations must include provisions governing the inspection of farms, shell eggs, and egg products to ensure that shell eggs and egg products are produced in compliance with the bill.

On notice by the Secretary, a farm owner or operator or a business owner or operator must allow the Secretary access during regular business hours to a farm, business, vehicle, or record related to the activities regulated under the bill. The Secretary may use a government or private inspection or process verification provider that is approved by the Secretary to ensure compliance with the bill. If the Secretary finds that shell eggs or egg products are being sold in violation of the bill, the Secretary may issue a written or printed "stop-sale" order. Upon receipt of such an order, the recipient may not sell any shell eggs or egg products subject to the order. A person who has been issued a "stop-sale" order may appeal to the Secretary. In addition, the Secretary must impose a civil penalty of \$5,000 for each violation of the bill. Criminal penalties generally applicable to violations of the Agriculture Article do not apply to the bill's provisions.

Exemptions

The bill does not apply to the confinement of egg-laying hens for the purposes of (1) medical research; (2) examination, testing, individual treatment, or operation for veterinary purposes; (3) transporting egg-laying hens; (4) State or county fair exhibitions, 4-H programs, or similar exhibitions; or (5) animal husbandry, provided that the confinement is for no more than six hours in a 24-hour period and 24 hours in a 30-day period.

Current Law: Under the Maryland Egg Law, a person may not donate, sell, advertise, offer, or in any manner represent for sale shell eggs to any person unless the shell eggs

meet the standards of the law or any regulation adopted in accordance with it. MDA indicates, in its [annual report](#) (p. 24), that its Egg Inspection Program enforces the Maryland Egg Law and that inspections are performed at the producer, wholesale, food service, and retail levels to ensure eggs sold in the State meet the standards for quality, size, refrigeration, microbial and physical contamination, labeling, and recordkeeping. The program also registers egg wholesalers and packers. According to MDA, portions of the labeling, recordkeeping, and registration requirements provide traceability in case of a *Salmonella enteritidis* outbreak, and other sections of the law were established to reduce the risk to consumers of food-borne illness. Eggs found to be out of compliance with the established standards are removed from sale and violation notices are issued to the responsible parties.

State Expenditures: General fund expenditures increase by \$281,216 in fiscal 2024, which accounts for a 120-day start-up delay. This estimate reflects the cost of hiring (1) three agriculture inspectors to inspect farms in order to issue certificates of compliance, conduct other compliance inspections, and provide compliance assistance to regulated farm and business owners and operators and (2) one office secretary to manage administrative tasks associated with the certificate process and other compliance efforts. MDA indicates that it does not have staff that can absorb these responsibilities. While the bill’s prohibition and certificate requirement do not apply until January 1, 2025, this analysis assumes compliance assistance efforts and inspections prior to issuance of certificates begin well in advance of that. The estimate includes salaries, fringe benefits, one-time start-up costs (including an additional vehicle), and ongoing operating expenses.

Positions	4.0
Salaries and Fringe Benefits	\$182,830
Vehicle Purchase	65,000
Operating Expenses	<u>33,386</u>
Total FY 2024 State Expenditures	\$281,216

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

State Revenues: General fund revenues may increase minimally beginning in fiscal 2025 due to the collection of any civil penalties imposed for violations of the bill.

Small Business Effect: The bill may have a meaningful impact on small business owners or operators that sell or purchase shell eggs or egg products, to the extent they incur additional costs to comply with the bill’s prohibition or to obtain a certificate from MDA.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of Legislative Services

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Analysis by: Brandon Stouffer

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