



MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: 2/17/2015 BILL NO.: SB163

SUBJECT: AGRICULTURE – NEONICOTINOID PESTICIDES – LABELING REQUIREMENT (POLLINATOR PROTECTION ACT OF 2015)

COMMITTEE: EDUCATION, HEALTH AND ENVIRONMENTAL AFFAIRS

MDA POSITION: OPPOSE

EXPLANATION:

SB163 would require the Maryland Department of Agriculture (MDA) to prohibit a person from selling in the State certain seeds and plants that have been treated with a neonicotinoid pesticide unless the seeds or plants bear a label that bears a specific statement and the person selling the seed or plant material must also sell a restricted-use pesticide. The bill would also prohibit a person from applying a neonicotinoid unless the person is a certified applicator, a farmer, or a veterinarian.

COMMENT:

SB163 would place a significant additional fiscal and operational burden on MDA. First, MDA would be responsible for enforcing mandatory labeling of plant material, nursery stock, annual plants, bedding plants or other plants that have been treated with a neonicotinoid pesticide according to SB163. The bill does not specify any time line for treatment prior to sale; therefore the treatment could be at any point in the life of the plant. According to the *Maryland Horticulture Industry 2012 Statistical Profile and Economic Summary*, conducted by the University of Maryland, 43.3% of plant material sold in Maryland is imported from out of state. The nursery or retail center would have no way of knowing what the plant had been treated with out of state. Although 34.5% of material sold is grown entirely on one farm in Maryland, once the material reaches the point of retail sale away from the place of production, any record of pesticide application during production would not be known. The MDA would need at least one additional Agricultural Inspector to assist in carrying out the provisions of this Bill. The State Chemist Section would be responsible for conducting chemical analysis of plant samples collected by field inspectors. To process these samples they will need one additional Chemist II and one additional Laboratory Technician.

MDA also would be required to inspect locations in the state of Maryland that sell pesticide products in order to enforce the pesticide use and sale provisions of SB163. It is conservatively estimated that there are over 3,000 retail operations (hardware stores,

garden centers, plant nurseries, grocery stores, pet supply stores, etc.) in Maryland that sell pesticides products. Of these locations, it is estimated that less than 5% (150) currently hold Restricted Use Dealer Permits, issued by MDA, to sell Restricted Use Pesticides. The remaining 95% (2,850) retail operations sell General Use Pesticides, which can be purchased and used by homeowners. The provision of this bill would require MDA to inspect each of these locations. This would create a negative operational impact on MDA's existing staff of seven inspectors. These additional inspections would take them away from their currently mandated inspection and investigational programs. It is conservatively estimated that MDA would need three additional inspectors to conduct an estimated 2,850 additional inspections of locations where pesticides are sold, taking MDA inspection staff away from conducting federal inspections under our Cooperative Grant Agreement with the U.S. Environmental Protection Agency (EPA). Should this happen, MDA's Pesticide Regulation Section could lose federal grant monies.

SB163 would have a negative fiscal impact on MDA as it does not include any additional funding source to carry out the provisions of the bill. The Pesticide Regulation Section is entirely specially funded. If SB163 is passed without additional funding to carry out its provisions, special fund expenditures would be directed away from existing enforcement and education activities. MDA respectfully disagrees with the legislative analyst's assumptions that enforcement of plant sales could be conducted by interviews with nursery staff, as they would be unlikely to know what pesticide were used in plant production. Rather, in most cases we would need to sample unlabeled plants to test for neonicotinoid residues to indicate whether they had been treated with these products. In 2014, MDA licensed 1,651 nurseries and plant dealers in Maryland, and inspected 411 establishments. These are production and sales facilities that deal in nursery stock as defined in the Plant Disease Law and this bill. The program estimates, based on observations and interactions regarding plant pest issues, that an additional 400 establishments exist that are not required to be licensed by MDA and would need to be visited to enforce this law. We estimate that an additional Agricultural Inspector II would be required to locate and inspect these facilities. We estimate that 3 random plant samples would be collected at each of 500 inspection sites for a total of 1,500 plant samples. This would be a conservative approach to enforcement. The State Chemist estimates the cost of analysis to be \$450 per sample for a total of \$675,000 for sampling procedures, which would pay for labor and supplies for testing. A mass spectrometry instrument would be required to conduct these activities at a one-time cost of \$450,000.. We also disagree that use enforcement would be initiated by complaint only, as this is not specified in the bill. We estimate costs for implementation of this bill to the Department as written to be in excess of \$1 million the first year, and approaching \$1M in subsequent years.

MDA is strongly committed to honeybee health and Maryland's beekeeping industry. To date, MDA has not documented any cases of neonicotinoid insecticides negatively impacting honeybees in Maryland. By law, all honeybee colonies in Maryland must be

registered with MDA. Our Apiary Inspection Program annually inspects registered colonies and offers guidance and help with beekeeping issues. In cooperation with our Pesticide Regulation Program they also provide real time investigation services to beekeepers who experience an unexplained colony loss. The pressures on Maryland honey bees include pests like the destructive Varroa mite and other pests and pathogens, nutrition, and habitat loss. These factors present management challenges for our large number of hobbyist beekeepers. However, colony and beekeeper registrations are steadily increasing, and the incidence of American foulbrood, the most serious brood disease of honey bees, remains very low - 0.6% of the colonies inspected in 2014.

Many positive things are happening in support of honeybees in Maryland and at the national level. The MDA is cooperating with the University of Maryland (UM) to develop a Managed Pollinator Protection Plan, as promoted by the White House, EPA, and the National Association of State Departments of Agriculture. This will be a public/private partnership to establish a systematic and comprehensive method for beekeepers and agricultural producers to cooperate and communicate in a way that allows both parties to operate successfully. In the summer of 2015, UM will be conducting a pilot Sentinel Hive program throughout the state. These hives will act as an early warning system to alert all beekeepers of escalating health problems. MDA will be testing pollen collected by this project for pesticide residues to help determine if and which pesticide residues may be impacting pollinators in the state. The EPA has been working aggressively to protect honeybees and other pollinators from pesticide exposure. EPA is currently reviewing all registered neonicotinoid products on a schedule that is expected to be completed in 2018. They also have required additional pollinator labeling on pesticides to be clearer and more precise in their directions for application. The Maryland Association of Soil Conservation Districts has worked with farmers to establish 49 acres of pollinator friendly habitat on 53 farms in 15 counties under a USDA grant program. The MDA believes that these processes need to be completed and assessed before any regulatory burdens are added that will detract from existing important programs that protect Maryland citizens and the environment from pesticide misuse.

MDA enforces the federal registration of pesticides products at the state level. It is our position that EPA has always taken the lead on pesticide registration and labeling issues. They can and have canceled or changed pesticide product registrations and product labeling to protect the environment, human health, wildlife, and pollinators. EPA has the resources, expertise and reach to evaluate the vast volume of data and information available to assess pesticide risk. MDA also feels that these restrictions would create confusion in the distribution chain and market place.

MDA requests an unfavorable vote on SB163.