

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 815 (Delegate Jacobs, *et al.*)  
Environment and Transportation

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Agriculture - Milk and Milk-Based Products - Labeling

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This bill prohibits a person from selling, offering for sale, or advertising a product labeled as “milk” or a milk-based product unless that product is derived from a cow or another animal.

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Fiscal Summary

**State Effect:** The bill can be implemented with existing budgeted resources. The application of existing penalty provisions to the bill’s prohibition does not materially affect State finances.

**Local Effect:** The application of existing penalty provisions to the bill’s prohibition does not materially affect local finances.

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary:** The bill defines “milk” as the lacteal secretion of cows or other animals, including all skim, butterfat, or other constituents obtained from separation or other processes.

**Current Law:** Section 11-401 of the Agriculture Article defines “milk or other fluid dairy products” as the lacteal secretion obtained from a cow and any fluid component of the secretion, before any processing or manufacturing other than cream separation processing. The Health-General Article defines “milk” as the milk of a cow, goat, or other hooved mammal. The U.S. Food and Drug Administration (FDA) defines milk under federal

regulations as the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows.

Any person who violates any provision of the Agriculture Article is guilty of a misdemeanor and, unless another penalty is specified elsewhere, subject to a fine of up to \$500 and/or imprisonment for up to three months. For a second or subsequent offense, a person is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

**Background:** There are several plant-based milk alternatives available for consumer purchase. Common alternatives include soy, rice, coconut, oat, nut (almond, cashew, hazelnut, and macadamia), quinoa, and hemp.

In January 2017, the Dairy Pride Act was introduced in the U.S. Congress to require FDA to enforce its definition of milk due to the prevalence of plant-based alternatives being labeled as “milk.” In September 2018, FDA requested public comments on how the administration should address the issue of plant-based liquids and milk labeling. The comment period closed January 28, 2019. Over the next year, FDA will review submitted comments and issue guidance regarding the labeling of plant-based products.

**Small Business Effect:** The impact of the bill’s prohibition on small businesses may be significant as the bill does not provide for any phasing out of existing stock. As many plant-based milk alternative products are shelf stable, small business revenues may decrease due to the bill’s prohibition on selling affected products on or after October 1, 2019.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 922 (Senator Gallion, *et al.*) - Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland Department of Agriculture; Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2019  
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