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MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: February 6, 2019

BILL NUMBER: HOUSE BILL 50

SHORT TITLE: DEPARTMENT OF AGRICULTURE - MARYLAND PRODUCE SAFETY PROGRAM

MDA POSITION: SUPPORT

EXPLANATION:

This legislation would authorize the Secretary of Agriculture to conduct inspections and compliance/enforcement activities related to the Produce Safety Rule. Without this authority, inspections would be conducted by Maryland Department of Agriculture (MDA) employees credentialed by U.S. Food and Drug Administration (FDA) and/or by FDA employees and all review of inspections and compliance/enforcement actions would be conducted by FDA. FDA has little experience or knowledge of agricultural practices or existing environmental regulations. The Maryland Department of Agriculture fully understands other regulations that apply to Maryland farmers, has developed a Maryland team of educators and regulators to assist farmers with compliance, and has an understanding of Maryland agricultural practices, water sources and climate. MDA supports this legislation as the most effective way to reduce the risks to public health; harmonize food safety regulations with environmental regulations; and protect the economic viability of Maryland produce growers.

BACKGROUND INFORMATION:

The Food Safety Modernization Act was passed by Congress in 2010 to change food safety regulations to better protect public health and the economic health of food producers by emphasizing prevention of food borne illness through practices that reduce the risk of pathogens contaminating food from farm to table. Prior to this legislation, the emphasis was on investigating food borne illness outbreaks to determine the source and product recalls that happened months after an outbreak. The legislation included food safety standards for the growing, harvesting, packing and holding of fresh produce and directed

the FDA to work with State Departments of Agriculture to implement these standards. The Produce Safety Final Rule was effective January 26, 2016 with staggered compliance dates based on the dollar amount of sales. The FDA offered the states a fully funded cooperative agreement to provide education, outreach, technical assistance, inspection and enforcement of the Produce Safety Rule. Forty-eight State Departments of Agriculture including MDA entered into cooperative agreements with FDA for the Produce Safety Rule.

The provisions of the Produce Safety Rule establish basic standards for microbial quality of agricultural water; worker health, hygiene and training; sanitation of equipment and food contact surfaces; prevention of produce contamination by wildlife and domestic animals; and use of biological soil amendments of animal origin. The rule allows for flexibility in compliance with these standards to accommodate regional differences in agricultural practices, climate, agricultural water sources and existing state laws. There are some areas where compliance with the Produce Safety Rule could potentially create conflicts with existing Maryland environmental laws and regulations. For example, Nutrient Management regulations require application of nutrients in a manner that prevents run off into the waters of the state which means they must be applied as close to when planting occurs as possible so plants will uptake the nutrients. If a farmer is using biological soil amendments of animal origin, the Produce Safety Rule requires application as far from harvest as possible to avoid contamination of the edible portion of the plant.

The Maryland Department of Agriculture, University of Maryland Extension, University of Maryland College of Agriculture, and the University of Maryland Agricultural Law Education Initiative have cooperated to offer Maryland produce farmers food safety training (over 800 attendees from 2008 to 2017), technical assistance and voluntary certification of compliance since 2008. Since MDA entered into the cooperative agreement with FDA in 2016, this team has provided the FDA mandated Produce Safety Rule grower curriculum to 200 Maryland farmers; provided on-farm readiness reviews to assist farmers with adopting compliant practices; and developed webinars, publications and supplemental training sessions to assist Maryland farmers with compliance efforts. As we have worked with farmers on food safety issues, existing State environmental regulations have been considered and included in recommendations for compliance with the Produce Safety Rule.

If you have additional questions, please contact Cassie Shirk, Director of Legislation and Governmental Affairs, at cassie.shirk@maryland.gov or 410-841-5886.