



# Maryland Department of Agriculture

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## MARYLAND DEPARTMENT OF AGRICULTURE

### LEGISLATIVE COMMENT

**DATE: March 1, 2019**

**BILL NUMBER:** HOUSE BILL 815

**SHORT TITLE:** AGRICULTURE - MILK AND MILK-BASED PRODUCTS - LABELING

**MDA POSITION:** INFORMATION

#### **EXPLANATION:**

This legislation would prohibit a person from selling, offering for sale, or advertising a product labeled as milk or a milk-based product if the product is not derived from a cow or another animal.

#### **BACKGROUND INFORMATION:**

The Maryland Dairy Industry Oversight and Advisory Council (Council), works to improve and sustain the economic viability of Maryland's dairy industry. Each year, the Council is required to submit a report to the Governor.

The issue addressed in HB 815 has been a priority for the Council, as plant-based products labeled as milk/cheese are taking market share from dairy products. There is additional concern that consumers may assume plant-based products are nutritionally equivalent to dairy products – they are not. For example, 8 ounces of milk typically has 8 grams of protein, while almond beverage typically has none unless fortified.

In its current report, the Council states, “The Maryland Department of Agriculture should work with the U.S. Food and Drug Administration (FDA) to ensure that plant-based beverages are not marketed as milk.”

The FDA issued a statement in late September 2018, saying it has concerns that the labeling of some plant-based products may lead consumers to believe that those products have the same key nutritional attributes as dairy products, even though these products can vary widely in their nutritional content. FDA said it is important that it better understand

consumers' expectations of these plant-based products compared to dairy products.

FDA has taken the first step in its process by issuing a request for information (RFI) in the Federal Register to solicit comments and feedback from the public to gain more insight into how consumers use plant-based alternatives and how they understand terms like "milk" or "cheese" when used to label products made from soy, peas, nuts, etc.

Over the next year, the FDA will be looking at next steps, which will include issuing guidance for the industry. This would clarify FDA's thinking regarding the labeling of plant-based products while giving manufacturers adequate notice about any changes.

Nielsen, commissioned by the Plant Based Foods Association, reported plant-based milk alternatives were up 9 percent from July 2017-July 2018, with sales of nearly \$1.6 billion.

According to the U.S. Department of Agriculture, Economic Research Service, fluid milk consumption has fallen from 247 pounds per person annually in 1975 to 149 pounds per person in 2017.

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