MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: 2/10/2016 BILL NO.: HB 211

SUBJECT: **AGRICULTURE – NEONICOTINOID PESTICIDES – LABELING SIGNAGE, AND RESTRICTIONS ON SALES AND USE (POLLINATOR PROTECTION ACT OF 2016)**

COMMITTEE: **ENVIRONMENT AND TRANSPORTATION**

MDA POSITION: **OPPOSE**

EXPLANATION:
HB211 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 or are in close proximity of a sign that bears a specific statement. A person selling a neonicotinoid pesticide must also sell a restricted-use pesticide. The bill would also prohibit a person from applying a neonicotinoid pesticide unless the person is a certified applicator, a farmer, or a veterinarian.

COMMENT:

MDA is strongly committed to honeybee health and Maryland's beekeeping industry. 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 are well documented and 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 small scale beekeepers. However, colony and beekeeper registrations are stable or increasing (See Figure 1). The incidence of American foulbrood, the most serious brood disease of honey bees, remains very low - ~ 0.5% of the 2,224 colonies inspected in 2015.

To date, MDA has not documented any cases of neonicotinoid pesticides negatively impacting honeybees in Maryland. According to the USDA APHIS 2012-2014 National Honeybee Survey data for Maryland, no neonicotinoids were found in Maryland pollen samples, and fewer pesticides overall were detected when compared to the national average (Figure 2). Preliminary results from pollen sampled in Maryland in 2015 showed 5 (9%) of 56 samples had detectable levels of neonicotinoids. Four of these were imidacloprid; only one of these was over the 25 ppb (25.4 ppb) threshold for imidacloprid above which the EPA has tentatively determined in a preliminary review that effects on pollinator hives are likely to be seen and at that level and below which effects are unlikely.

Many positive things are happening in support of honeybees in Maryland and at the national level:

- On January 20, 2016, MDA partnered with The University of to hold a Maryland Managed Pollinator Protection Plan (MP3) Summit. There were 73 participants representing many stakeholders involved with pollinator health in Maryland. Background information and facilitated discussions centered around three main categories: 1. Crop and vegetation pest control, 2. Forage and nutrition, and 3. Pollinator pests, disease, and genetics. Electronic polling at the end of the summit allowed for participants to identify the main concerns for MD pollinator health and the issues to be addressed in the MP3. We will use the final report on all stakeholder input to draft a plan that protects pollinators and allows stakeholders to operate successfully.
- In the summer of 2015, UM conducted a pilot Sentinel Hive program throughout the state to act as an early warning system to alert all beekeepers to escalating honey bee health problems. MDA tested pollen collected by this project for pesticide residues to help determine if and which pesticide residues may be impacting pollinators in the state. Results are being summarized by UM and will be available soon.
- 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. EPA released a preliminary pollinator risk assessment for imidacloprid on January 6, 2015 that is currently under review in the Federal Register. Clothianidin, thiamethoxam, dintefuran and acetamiprid are still under review. Thiacloprid was voluntarily cancelled by the registrant.

MDA believes that these processes need to be completed before any regulatory burdens are added that will detract from existing important programs that protect Maryland citizens and the environment from pesticide misuse.

HB 211 would place a significant additional fiscal and operational burden on MDA:

1. MDA would be responsible for enforcing mandatory labeling or signage of plant material, nursery stock, annual plants, bedding plants or other plants that have been treated with a neonicotinoid pesticide according to HB211. 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*, 43.3% of plant material sold in Maryland is imported from out of state. MDA also receives regular notifications from USDA of propagative plant material that has been imported from out of the country. Enforcement could not be accomplished by interviews with retail staff as they would be unlikely to know what pesticides 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 2015, MDA licensed more than 1,600 nurseries and plant dealers in Maryland, and inspected 569 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 of these samples to be more than $500,000, including supplies, labor, and equipment.

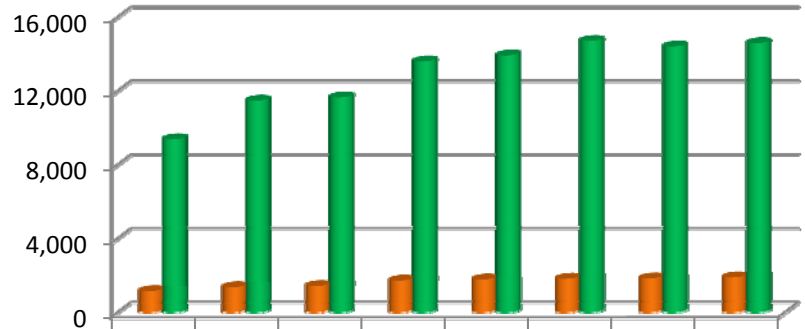
2. MDA also would be required to inspect locations in the state of Maryland that sell pesticide products in order to enforce the pesticide use and sale provisions of HB211. The bill as written requires that neonicotinoids could only be sold by a person who also sells a Restricted Use Pesticide, i.e. a Licensed Dealer. A homeowner is not specifically prohibited by this Bill from purchasing neonicotinoids, but they would only be able to purchase in the state from Licensed Dealers, or go across state lines, or on the Internet to purchase product. However, homeowners would be prohibited according to this bill from using the product they purchased. 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 these locations. HB211 does not include any additional funding source to carry out the provisions of the bill. The Pesticide Regulation Section is entirely specially and federally funded. If HB211 is passed without additional funding to carry out its provisions, special fund expenditures would be directed away from existing enforcement and education activities, and federal funding could be compromised.

We estimate total 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 enforces the federal registration of pesticide 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 worldwide to assess pesticide risk. MDA also feels that these restrictions would create confusion in the distribution chain and market place. In our experience, complicating the regulatory environment compromises compliance by even those who want to do the right thing.

MDA requests an unfavorable report on HB211.

Registered MD Beekeepers and Colonies
2008 - 2015



	2008	2009	2010	2011	2012	2013	2014	2015
Beekeepers	1,152	1,363	1,425	1,721	1,782	1,821	1,838	1,895
Colonies	9,378	11,474	11,650	13,600	13,924	14,711	14,412	14,594

Figure 1

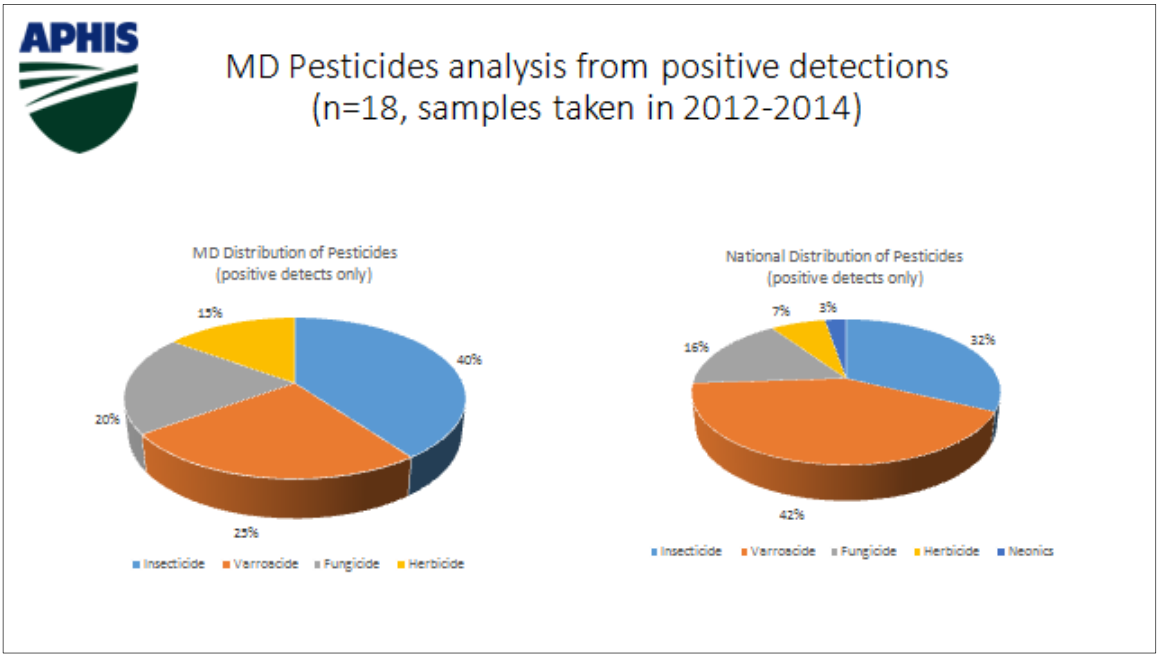


Figure 2