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S.115

An act relating to miscellaneous agricultural subjects

It is hereby enacted by the General Assembly of the State of Vermont:

\* \* \* Livestock; Quarantine \* \* \*

Sec. 1. 6 V.S.A. § 1157(a) is amended to read:

(a) The Secretary may order any domestic animals, the premises upon which they are or have been located, any animal products derived from those domestic animals, and any equipment, materials, or products to which they have been exposed to be placed in quarantine if the animals:

- (1) are affected with a contagious disease;
- (2) have been exposed to a contagious disease;
- (3) may be infected with or have been exposed to a contagious disease;
- (4) are suspected of having biological or chemical residues, including antibiotics, in their tissues that would cause the carcasses of the animals, if slaughtered, to be adulterated within the meaning of chapter 204 of this title; ~~or~~
- (5) are suspected of having been exposed to biological or chemical agents that may cause the animal's milk, processed dairy product, or other product to be adulterated or otherwise unsafe for human consumption or use;  
or



1       The Secretary of Agriculture, Food and Markets, ~~through the Division of~~  
2 ~~Business Development~~, shall enforce the provisions of this chapter and shall  
3 establish such rules and employ such inspectors as are deemed necessary and  
4 advisable. Such duly appointed inspectors shall have free access at all  
5 reasonable hours to any building or other place where it is reasonable to  
6 believe eggs are being sold, offered, or exposed for sale.

7       Sec. 4. 6 V.S.A. § 356 is amended to read:

8       § 356. NOTICE OF VIOLATION

9       ~~When the Secretary becomes cognizant of a violation of a provision of this~~  
10 ~~chapter, he or she may cause notice of such fact to be given to the person~~  
11 ~~concerned and to the State's Attorney of the county in which the offense was~~  
12 ~~committed, or in which the violator resides or has a place of business~~ When the  
13 Secretary of Agriculture, Food and Markets determines that a person is  
14 violating this chapter or any rule adopted thereunder, the Secretary may issue a  
15 written warning that shall be served in person or by certified mail, return  
16 receipt requested. A warning issued under this section shall include:

17       (1) a description of the alleged violation;

18       (2) identification of this section;

19       (3) identification of the applicable violation; and

20       (4) the required corrective action that the person shall take to correct the  
21 violation.

1 Sec. 5. 6 V.S.A. § 357 is amended to read:

2 § 357. PENALTY

3 ~~(a) A person who violates any provision of this chapter shall be fined not~~  
4 ~~more than \$100.00 nor less than \$25.00 for the first offense and not more than~~  
5 ~~\$500.00 nor less than \$50.00 for each subsequent offense. A person who~~  
6 ~~obstructs or hinders the Secretary or any of his or her assistants in the~~  
7 ~~performance of his or her duties under this chapter shall be fined not more than~~  
8 ~~\$500.00 nor less than \$50.00~~ Notwithstanding the requirements of section 356  
9 of this title, the Secretary at any time may pursue one or more of the following:

10 (1) issue an appropriate order including a cease and desist or stop sale  
11 order to a person the Secretary believes to be in violation of this chapter or an  
12 underlying rule;

13 (2) order mandatory corrective actions;

14 (3) take any action authorized under chapter 1 of this title;

15 (4) seek administrative or civil penalties in accordance with the  
16 requirements of section 15, 16, or 17 of this title.

17 (b) When the Secretary of Agriculture, Food and Markets issues an order to  
18 cease and desist, stop sale, or take other action, or a required corrective action,  
19 the Secretary shall provide the person subject to the order or corrective action a  
20 statement that the order or corrective action is effective upon receipt and the  
21 person has 15 days to request a hearing.

1       (c) If the Secretary of Agriculture, Food and Markets issues a verbal order  
2       under this section, the Secretary shall issue written notice to the person subject  
3       to the order within five business days following the issuance of the verbal  
4       order. The written notice shall include a statement that the person has 15 days  
5       from the date the written notice was received to request a hearing.

6       (d) If a person who receives a written order to cease and desist, stop sale, or  
7       take other action, or a written required corrective action, does not request a  
8       hearing in writing within 15 days after receipt of the written order or required  
9       corrective action, the person waives the right to a hearing. Upon receipt of a  
10       written request for a hearing, the Secretary shall promptly set a date and time  
11       for a hearing. A request for a hearing on an order issued under this section  
12       shall not stay the order.

13       (e) A person aggrieved by a final action or decision of the Secretary under  
14       this section may appeal de novo to the Civil Division of the Superior Court  
15       within 30 days of the Secretary's final decision.

16                   \* \* \* Agency Enforcement Authority \* \* \*

17       Sec. 6. 6 V.S.A. § 15 is amended to read:

18       § 15. ADMINISTRATIVE PENALTIES

19       (a) In addition to other penalties provided by law, the Secretary may assess  
20       administrative penalties, not to exceed ~~\$1,000.00~~ \$5,000.00, for each violation

1 of this title and Titles 9 and 20, unless a higher administrative penalty amount  
2 is otherwise provided for in Title 9 or Title 20.

3 (b) In determining the amount of the penalty to be assessed under this  
4 section, the Secretary may give consideration to one or more of the following:

5 (1) the degree of actual and potential impact on public health, safety,  
6 and welfare resulting from the violation;

7 (2) the presence of mitigating or aggravating circumstances;

8 (3) whether the violator has been warned or found in violation of the  
9 same provisions of law in the past;

10 (4) the economic benefit gained by the violation;

11 (5) the deterrent effect of the penalty;

12 (6) the financial condition of the violator.

13 (c) Each violation may be a separate and distinct offense and, in the case of  
14 a continuing violation, each day's continuance may be deemed to be a separate  
15 and distinct offense. In no event shall the maximum amount of the penalty  
16 assessed under this section exceed ~~\$25,000.00~~ \$50,000.00.

17 (d) In addition to the administrative penalties authorized by this section, the  
18 Secretary may recover the costs of investigation, which shall be credited to a  
19 special fund and shall be available to the Agency to offset these costs.

20 (e) Any party aggrieved by a final decision of the Secretary may appeal de  
21 novo to the Superior Court within 30 days of the final decision of the

1 Secretary. The Secretary may enforce a final administrative penalty by filing a  
2 civil collection action in any District or Superior Court.

3 \* \* \* Water Quality \* \* \*

4 Sec. 7. 6 V.S.A. § 4828(a) is amended to read:

5 (a) It is the purpose of this section to provide assistance to purchase or use  
6 innovative equipment that will aid in the reduction of surface runoff of  
7 agricultural wastes to State waters, improve water quality of State waters,  
8 reduce odors from manure application, separate phosphorus from manure,  
9 ~~decrease~~ mitigate greenhouse ~~gas emissions~~ gases, and reduce costs to farmers.

10 Sec. 8. REPORT ON MUNICIPAL STORMWATER REGULATION OF  
11 FARMS

12 On or before December 1, 2023, the Commissioner of Environmental  
13 Conservation, after consultation with the Secretary of Agriculture, Food and  
14 Markets and with representatives of municipal stormwater utilities or  
15 regulators, shall submit to the Senate Committees on Agriculture and on  
16 Natural Resources and Energy and the House Committees on Agriculture,  
17 Food Resiliency, and Forestry and on Environment and Energy a report  
18 regarding the regulation by municipal stormwater entities of property subject  
19 to the Required Agricultural Practices. The report shall include:

1           (1) a recommendation regarding whether property subject to the  
2           Required Agricultural Practices should be subject to regulation by a municipal  
3           stormwater utility or other municipal stormwater entity;

4           (2) a recommendation regarding whether property subject to the  
5           Required Agricultural Practices should be required to pay an assessment or fee  
6           imposed by a municipal stormwater utility or other municipal stormwater  
7           entity;

8           (3) a recommendation whether property subject to the Required  
9           Agricultural Practices should receive an offset of any stormwater assessment  
10           or fee charged by a municipal stormwater utility or other municipal stormwater  
11           entity for the stormwater management practices that the property is required to  
12           conduct under State law;

13           (4) if the report recommends that property subject to the required  
14           agricultural practice should be subject to a stormwater fee, rate, or assessment,  
15           a recommendation on whether owners of property subject to the Required  
16           Agricultural Practices should be required to pay stormwater fees, rates, or  
17           assessments for the period of suspension under Sec. 2 of this act; and

18           (5) any other recommendation that the Commissioner determines is  
19           relevant to municipal stormwater regulation of properties subject to the  
20           Required Agricultural Practices, including any proposed legislative changes.



