

H.869

Introduced by Committee on Agriculture and Forest Products

Date:

Subject: Agriculture; dairy operations; weights and measures

Statement of purpose of bill as introduced: This bill proposes to make amendments to multiple agricultural subjects. The bill would repeal the apple marketing board. The bill also would require commercial pesticide applicators to carry at least \$1,000,000.00 in liability insurance. In addition, the bill amends the requirements for the licensing of and reporting by milk handlers in the State. The bill would require persons who sell dairy equipment to be registered with the State. The bill would amend the requirements for the calibration of bulk milk tanks. The bill also would repeal the exemptions from the weights and measures licensing fees.

An act relating to miscellaneous agricultural subjects

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

* * * Apple Marketing Board * * *

Sec. 1. 6 V.S.A. §§ 252 and 253 are amended to read:

§ 252. ~~VERMONT APPLE MARKETING BOARD~~

~~(a) The Vermont apple marketing board is hereby created. It shall consist of seven voting members. They shall be the secretary of agriculture, food and~~

1 ~~markets, who shall be the chair, and six producers who are appointed by the~~
2 ~~secretary. During the first year of the board's existence, the secretary shall~~
3 ~~appoint two members to three year terms, two members to two year terms and~~
4 ~~two members to one year terms. Thereafter, each appointment shall be for a~~
5 ~~three year term. The secretary shall also appoint a representative of the~~
6 ~~extension service to serve as an ex officio member of the board.~~

7 (b) ~~Each appointed member of the board shall receive a per diem as~~
8 ~~established in 32 V.S.A. § 1010 and shall be entitled to his or her actual~~
9 ~~expenses incurred while attending meetings. The per diem expense shall be~~
10 ~~part of the costs incurred in subdivision 253(d)(4) of this title.~~

11 (c) ~~The duties and responsibilities of the board shall include:~~

12 (1) ~~the establishment of an appropriate marketing rule and such other~~
13 ~~rules as may be necessary;~~

14 (2) ~~adopting amendments to the marketing rule as deemed advisable;~~

15 (3) ~~the review and approval of the estimated budget prepared by the~~
16 ~~secretary required for the proper operation of the marketing rule;~~

17 (4) ~~adopting methods by which the secretary shall assess members of the~~
18 ~~industry and methods for collecting the necessary funds;~~

19 (5) ~~authorizing the secretary to collect and assemble information and~~
20 ~~data necessary for the proper administration of the rule;~~

1 ~~(6) coordinating with the secretary in connection with the operation of~~
2 ~~the marketing rule; and~~

3 ~~(7) coordinating marketing efforts with other states, federal officials,~~
4 ~~and public or private entities. [Repealed.]~~

5 § 253. ~~POWERS AND DUTIES OF THE VERMONT APPLE MARKETING~~
6 ~~BOARD~~

7 ~~(a) The board may make and issue marketing rules, after due notice and~~
8 ~~opportunity for hearing, subject to approval of not less than 51 percent of the~~
9 ~~eligible producers who participate in the referendum.~~

10 ~~(b) The board may, and upon written petition duly signed by 25 percent of~~
11 ~~the producers in the area, shall amend or terminate the marketing rule after due~~
12 ~~notice and opportunity for hearing, but subject to the approval of not less than~~
13 ~~51 percent of producers participating in a referendum vote.~~

14 ~~(c) Any marketing agreement or order issued by the board pursuant to this~~
15 ~~chapter may contain any or all of the following:~~

16 ~~(1) establishment of research programs designed to further the purposes~~
17 ~~of this chapter; any research program shall be coordinated with the University~~
18 ~~of Vermont and the state colleges to assure that duplicate state research~~
19 ~~projects are not conducted simultaneously;~~

20 ~~(2) provision for determining the handling and marketing conditions of~~
21 ~~apples;~~

1 ~~(3) provision for contracting with appropriate parties for promotion,~~
2 ~~paid advertising, or publicity of apples; and~~

3 ~~(4) establishment of a schedule of fees to be charged to producers that~~
4 ~~are necessary to fund the marketing order, but no producer shall be assessed a~~
5 ~~dollar amount which exceeds five percent of his or her gross sales of apples~~
6 ~~during the current year. Any producer who claims that he or she has been~~
7 ~~assessed a fee higher than a dollar amount which exceeds five percent of his or~~
8 ~~her gross sales of apples during the current year shall provide the board with~~
9 ~~all information that the board requests in order to evaluate the claim. The fee~~
10 ~~requirements of this subdivision shall not apply to those growers who annually~~
11 ~~produce or wholesale 500 bushels or fewer of apples.~~

12 ~~(d) The board or the secretary may temporarily suspend the operations of~~
13 ~~an effective marketing rule for a continuing period of not longer than one~~
14 ~~growing and marketing season if the purposes of this chapter are deemed~~
15 ~~unnecessary during that season. [Repealed.]~~

16 Sec. 2. UNEXPENDED FUNDS OF APPLE MARKETING BOARD

17 Notwithstanding the requirements of 6 V.S.A. § 256, any cash balance in
18 the Apple Marketing Board Special Fund shall be appropriated to the Secretary
19 of Agriculture, Food and Markets, who shall issue the funds to the Vermont
20 Tree Fruit Growers Association for the purposes of promoting and marketing
21 the State's fruit tree sector. Once the cash balance of the Apple Marketing

1 Board Special Fund is appropriated under this section, the Apple Marketing

2 Board Special Fund shall be closed.

3 * * * Mosquito Control * * *

4 Sec. 3. 6 V.S.A. § 1085(b) is amended to read:

5 (b) After submission of an application under subsection (a) of this section,
6 the Secretary of Agriculture, Food and Markets may award a grant of 75
7 percent or less of the project costs for the purchase and application of larvicide
8 and the costs associated with required larval survey activities within a
9 mosquito control district. The mosquito control district may provide 25
10 percent of the project costs through in-kind services, including adulticide
11 application or the purchase of capital equipment used for mosquito control
12 activities. At the Secretary's discretion, costs associated with capital
13 equipment that may be required for larval control programs within a mosquito
14 control district also may be eligible for grant awards up to 75 percent of the
15 total equipment costs.

16 * * * Pesticide Applicators; Liability Insurance * * * *

17 Sec. 4. 6 V.S.A. § 1106 is amended to read:

18 § 1106. FINANCIAL RESPONSIBILITY

19 The ~~secretary~~ Secretary may require from a licensee or an applicant for a
20 license under this chapter evidence of his or her financial ability to properly
21 indemnify persons suffering damage from the use or application of economic

1 poison, in the form of a surety bond, liability insurance, or cash deposit, ~~none~~
2 ~~of which shall exceed \$10,000.00~~ of at least \$1,000,000.00, but this section
3 shall neither restrict nor enlarge the liability of any person under applicable
4 laws.

5 * * * Dairy Operations; Milk Handlers * * *

6 Sec. 5. 6 V.S.A. § 2674 is amended to read:

7 § 2674. RECORDS AND REPORTS-HANDLERS

8 (a) On or before March 1 of each year, all handlers shall send the ~~secretary~~
9 Secretary a full and accurate report of the amount of business done during the
10 preceding year, together with such other statistical information as the ~~secretary~~
11 Secretary may require. Failure to file requested information shall be grounds
12 for suspension of license. If the handler purchases milk from a Vermont farm,
13 a cooperative representing a Vermont farm, or a marketing service owned by a
14 cooperative, the handler, in addition to any other information required by the
15 Secretary, shall provide the following information:

16 (1) the source or sources of milk purchased by the handler, and the
17 monthly quantity purchased for each of the past 12 months;

18 (2) a sworn balance sheet showing assets and liabilities and a profit and
19 loss statement as of the end of the handler's preceding fiscal year, and such
20 other information regarding its financial condition as the Secretary may
21 require; and

1 (3) a statement as to when all Vermont producers will be paid in part
2 and in full, provided that payment shall be made as agreed upon but not later
3 than the 25th day of the following month.

4 (b) A milk handler that is licensed under this chapter and that withdraws
5 more than 57,600 gallons of groundwater per day averaged over any
6 30-consecutive-day period shall annually report estimated water use to the
7 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
8 Markets. The ~~secretary of agriculture, food and markets~~ Secretary of
9 Agriculture, Food and Markets shall share information reported under this
10 section with the ~~agency of natural resources~~ Agency of Natural Resources.

11 Sec. 6. 6 V.S.A. § 2722 is amended to read:

12 § 2722. APPLICATION

13 Applications shall be completely filled out and sworn to by the applicant or
14 a partner or officer thereof and in case of renewal shall be filed with the
15 ~~secretary by June 1~~ Secretary on or before July 15 of each year. New handlers
16 may apply for a license at any time. Renewal applications not received by
17 ~~July 1~~ on or before August 1 shall be assessed a late fee of \$50.00. The
18 application for a handler's license shall provide the following information and
19 such other information as the ~~secretary~~ Secretary by regulation shall
20 reasonably require:

1 (1) Name and address of applicant and the location of all plants and
2 facilities owned or operated or to be owned or operated within the ~~state~~ State
3 of Vermont, outside the ~~state~~ State of Vermont, or both.

4 (2) A statement as to whether the applicant, or any partner, officer or
5 director thereof, is presently the subject of any criminal, civil, or disciplinary
6 action by any federal or state agency, or has been convicted of a crime relating
7 in any way to the business of milk processing, marketing, or both.

8 (3) In the case of a new application, the applicant shall provide the
9 following information:

10 (A) The anticipated sources of supply of milk ~~and the daily quantity~~
11 ~~purchased in the past for the next 12 months; in the case of a new application,~~
12 ~~in addition to the foregoing, the applicant shall set forth its;~~

13 (B) the anticipated supply of milk and the daily quantity to be
14 purchased from such sources. If a handler buys milk, or represents that he or
15 she intends to buy milk, from Vermont producers, he or she shall provide a
16 sworn balance sheet showing assets and liabilities and a profit and loss
17 statement as of the end of the handler's preceding fiscal year and such other
18 information regarding its financial condition as the ~~secretary~~ Secretary may
19 require. ~~In the case of a new application, these~~ Upon the request of the
20 Secretary, the financial statements shall be accompanied by an opinion of a
21 certified public accountant.

1 ~~(4)(C)~~ In case milk has been purchased from Vermont producers, or
2 the applicant represents that he or she intends to purchase milk from Vermont
3 producers, the value of milk purchased for each of the preceding 12 months, or
4 the The value of the milk he or she intends to purchase for each of the
5 succeeding 12 months from Vermont producers. In case purchases from
6 Vermont milk producers during the license period vary in any one month by
7 more than 20 percent from the amount stated on the application for the same
8 month of the prior year or from the amount predicted for that month in the
9 current year, as the case may be, the handler shall immediately notify the
10 ~~secretary~~ Secretary in writing of the amount of variation.

11 ~~(5)(D)~~ A statement as to when all Vermont producers will be paid in
12 part and in full. Payment shall be made as agreed upon but shall not be later
13 than the 25th of the following month.

14 ~~(6)(E)~~ In the case of a new application, the applicant shall provide such
15 The results of health tests certified by an appropriate public agency as the
16 ~~secretary~~ Secretary shall by regulation require. The ~~secretary~~ Secretary may
17 issue regulations establishing what tests ~~must~~ shall be administered and by
18 whom they ~~must~~ shall be certified.

19 ~~(7)(F)~~ A statement that the handler will pay to the ~~secretary~~ Secretary all
20 milk taxes required by law.

1 ~~(8)(G)~~ A statement that the handler will comply with all the provisions
2 of this part and the regulations ~~promulgated~~ adopted thereunder.

3 Sec. 7. 6 V.S.A. § 2723 is amended to read:

4 § 2723. EXEMPTIONS

5 Handlers' licenses shall not be required from the following persons:

6 (1) ~~Producers, except producers who sell fluid dairy products at retail in~~
7 ~~Vermont~~ A producer who only sells raw milk to milk handlers licensed to buy
8 raw milk from Vermont farms.

9 (2) A hotel, restaurant, or other public eating place that sells dairy
10 products for consumption on the premises, or a store which sells packaged
11 dairy products, provided the entire supply of dairy products is purchased from
12 licensed milk handlers.

13 (3) A person producing unpasteurized milk under chapter 152 of this
14 title, with respect to the sale of that unpasteurized milk only.

15 (4) A person who holds a frozen dessert license that only utilizes
16 pasteurized frozen dessert mix.

* * * Dairy Operations; Equipment Seller Registration * * *

Sec. 8. 6 V.S.A. § 2724(b) is amended to read:

(b) Any commercial enterprise ~~which~~ that sells, installs, or repairs milking, milk cooling and storage, or dairy processing equipment shall register with the ~~secretary~~ Secretary. The company shall apply for registration on a form made available by the ~~agency~~ Agency. The registration shall be valid for three years. Before registering a company, the ~~secretary~~ Secretary shall determine that the company is qualified to sell, perform the installation, or repair ~~service~~ milking and dairy processing equipment. The registration form shall be accompanied by a fee of \$100.00. The ~~secretary~~ Secretary may suspend or revoke registration for cause after giving the installer the opportunity to be heard. Registration shall terminate on December 31 of each year. Electricians or plumbers licensed pursuant to Title 26 doing only electrical or plumbing work within a farm or plant shall be exempt from this registration provided any work directly related to the processing of dairy products or milking of animals is performed under the supervision of a person that is registered. Any company that fails to renew ~~by~~ on or before December 31 shall pay a \$25.00 late fee, and the registration shall lapse if it is more than 30 days late.

* * * Nutrient Management Planning * * *

Sec. 9. 6 V.S.A. § 4827(e) is amended to read:

(e) If the Secretary ~~lacks~~ or the applicable U.S. Department of Agriculture conservation programs lack adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop and implement a nutrient management plan under State statute or State regulation shall be suspended until adequate funding becomes available. Suspension of a ~~state-required~~ State-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 of this title of the remaining requirements of a State permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 or farms permitted under section 4851 of this title.

* * * Bulk Milk Tanks; Calibration * * *

Sec. 10. 9 V.S.A. § 2692(b) is amended to read:

(b) Whenever a check of a bulk milk tank by the Agency of Agriculture, Food and Markets or by a competent person or agency indicates a tank calibration is not accurate within official tolerances, ~~the Secretary~~ the first handler receiving milk from the producer shall recalibrate the tank, unless the out-of-tolerance is caused by movement of the tank and the Secretary feels

1 there will be continued movement, then the recalibration shall not be
2 performed until a solid foundation has been constructed.

3 * * * Weights and Measures; Exemptions * * *

4 Sec. 11. 9 V.S.A. § 2730 is amended to read:

5 § 2730. LICENSING FOR OPERATION OF WEIGHING AND
6 MEASURING DEVICES

7 * * *

8 (b) No person shall operate a commercial weighing and measuring device
9 without first obtaining a license from the Secretary. Any person operating
10 commercial weighing and measuring devices at more than one location, or in
11 more than one motor vehicle, shall obtain a separate license for each location
12 or vehicle.

13 (c) Any person wishing to obtain a license to operate a weighing or
14 measuring device shall annually apply to the Secretary, on forms provided by
15 the ~~secretary~~ Secretary, on or before January 1. Each application shall be
16 accompanied by a fee as specified in this section. Except for new applicants,
17 any applicant who applies for a license after January 1 shall pay an additional
18 late fee equal to 10 percent of the specified fee.

19 * * *

20 (f)(1) The Secretary shall charge, per unit, the following annual license
21 fees:

1 (A) Retail motor fuel dispenser meter: \$15.00.

2 (B) Vehicle tank meter: \$100.00.

3 (C) Scales: \$10.00.

4 (D) Vehicle and heavy duty scales: \$150.00.

5 (E) Taxi meter: \$10.00.

6 (F) Meter: \$15.00.

7 (G) Bulk plant meter: \$100.00.

8 (H) Truck mounted propane meter: \$150.00.

9 (I) Hopper scales: \$100.00.

10 (J) Propane fill station: \$50.00.

11 (K) Medium duty scales:

12 portable platform scales: \$30.00.

13 all others: \$30.00.

14 (2) When the Agency incurs expenses when conducting a licensing
15 procedure greater than those normally incurred, the Agency shall assess and
16 retain a service charge sufficient to recoup its additional expenses.

17 (g) ~~License fee exemptions.~~

18 ~~(1) Any person who operates a commercial scale in a facility having less~~
19 ~~than 2,000 square feet of floor space shall be exempt from the license fee~~
20 ~~provisions of subdivision (f)(1)(C) of this section.~~

~~(3) The exemptions in this subsection shall not apply to any person who operates commercial weighing and measuring devices at more than one location. The exemptions are also not applicable to a person who is affiliated with another person operating commercial weighing and measuring devices, through common ownership, franchise agreement, joint venture, or other similar business arrangement. The Secretary shall not issue refunds for overpayment of fees on scales and gas pumps that are subject to exemptions under subdivisions (1) and (2) of this subsection, or for single scales under subdivision (f)(1)(C) of this section, as long as the application form includes instructions explaining the process for claiming these exemptions. [Repealed.]~~

* * *

* * * Effective Date * * *

This act shall take effect on July 1, 2014.