

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred House Bill No. 869
3 entitled “An act relating to miscellaneous agricultural subjects” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended as follows:

6 First: In Sec. 3, 6 V.S.A. § 1085(b), in the last sentence, before “may be
7 eligible” by striking out “also”.

8 Second: By striking out Sec. 12 in its entirety and inserting in lieu thereof
9 new Secs. 12–17 to read as follows:

10 * * * Emergency Authority * * *

11 Sec. 12. 6 V.S.A. § 21 is added to read:

12 § 21. AUTHORITY TO ADDRESS PUBLIC HEALTH HAZARDS AND
13 FOOD SAFETY ISSUES

14 (a) As used in this section:

15 (1) “Adulterated” shall have the same meaning as in 18 V.S.A. § 4059
16 and shall include adulteration under rules adopted under 18 V.S.A. chapter 82.

17 (2) “Emergency” means any natural disaster, weather-related incident,
18 health- or disease-related incident, resource shortage, plant pest outbreak,
19 accident, or fire that poses a threat or may pose a threat, as determined by the
20 Secretary, to health, safety, the environment, or property in Vermont.

21 (3) “Farm” means a site or parcel on which farming is conducted.

1 (4) “Farming” shall have the same meaning as in 10 V.S.A. § 6001(22).

2 (5) “Public health hazard” means the potential harm to the public health
3 by virtue of any condition or any biological, chemical, or physical agent. In
4 determining whether a health hazard is public or private, the Secretary shall
5 consider at least the following factors:

6 (A) the number of persons at risk;

7 (B) the characteristics of the person or persons at risk;

8 (C) the characteristics of the condition or agent that is the source of
9 potential harm;

10 (D) the availability of private remedies;

11 (E) the geographical area and characteristics thereof where the
12 condition or agent that is the source of the potential harm or the receptors
13 exists; and

14 (F) the policy of the Agency of Agriculture, Food and Markets as
15 established by rule or procedure.

16 (6) “Raw agricultural commodity” means any food in its raw or natural
17 state, including all fruits or vegetables that are washed, colored, or otherwise
18 treated in their unpeeled natural form prior to marketing.

19 (7) “Secretary” means the Secretary of Agriculture, Food and Markets.

1 (2) “Chronic wasting disease” or “CWD” means a transmissible
2 spongiform encephalopathy.

3 (b) Testing. A person operating a captive deer operation under the
4 jurisdiction of the Secretary of Agriculture, Food and Markets shall inform the
5 Secretary when a captive deer in his or her control dies or is sent to slaughter.
6 The person operating the captive deer operation shall make the carcass of a
7 deceased or slaughtered animal available to the Secretary for testing for CWD.

8 (c) Cost. The cost of CWD testing required under this section shall be paid
9 by the Secretary, and shall not be assessed to the person operating the captive
10 deer operation from which a tested captive deer originated.

11 * * * Agricultural Water Quality* * *

12 Sec. 14. 6 V.S.A. § 4812 is amended to read:

13 § 4812. CORRECTIVE ACTIONS

14 (a) When the ~~secretary of agriculture, food and markets~~ Secretary of
15 Agriculture, Food and Markets determines that a person engaged in farming is
16 managing a farm using practices which are inconsistent with the ~~practices~~
17 ~~defined by requirements of this chapter or rules adopted~~ under this subchapter,
18 the ~~secretary~~ Secretary may issue a written warning which shall be served in
19 person or by certified mail, return receipt requested. The warning shall include
20 a brief description of the alleged violation, identification of this statute and
21 applicable rules, a recommendation for corrective actions that may be taken by

1 the person, along with a summary of federal and ~~state~~ State assistance
2 programs which may be utilized by the person to remedy the violation ~~and a~~
3 ~~request for an abatement schedule from the person according to which the~~
4 ~~practice shall be altered.~~ The person shall have 30 days to respond to the
5 written warning and shall provide an abatement schedule for curing the
6 violation and a description of the corrective action to be taken to cure the
7 violation. If the person fails to respond to the written warning within this
8 period or to take corrective action to change the practices ~~in order to protect~~
9 ~~water quality,~~ the ~~secretary~~ Secretary may act pursuant to subsection (b) of this
10 section in order to protect water quality.

11 (b) ~~After an opportunity for a hearing, the secretary~~ The Secretary may:

12 (1) issue cease and desist orders and administrative penalties in
13 accordance with the requirements of sections 15, 16, and 17 of this title; and

14 (2) institute appropriate proceedings on behalf of the ~~agency~~ Agency to
15 enforce this subchapter.

16 (c) Whenever the ~~secretary~~ Secretary believes that any person engaged in
17 farming is in violation of this subchapter or rules adopted thereunder, an action
18 may be brought in the name of the ~~agency~~ Agency in a court of competent
19 jurisdiction to restrain by temporary or permanent injunction the continuation
20 or repetition of the violation. The court may issue temporary or permanent

1 injunctions, and other relief as may be necessary and appropriate to curtail any
2 violations.

3 ~~(d) The secretary may assess administrative penalties in accordance with~~
4 ~~sections 15, 16, and 17 of this title against any farmer who violates a cease and~~
5 ~~desist order or other order issued under subsection (b) of this section.~~

6 [Repealed.]

7 (e) Any person subject to an enforcement order or an administrative
8 penalty who is aggrieved by the final decision of the ~~secretary~~ Secretary may
9 appeal to the ~~superior court~~ Superior Court within 30 days of the decision. The
10 administrative judge may specially assign an ~~environmental~~ Environmental
11 judge to ~~superior court~~ Superior Court for the purpose of hearing an appeal.

12 Sec. 15. 6 V.S.A. § 4816 is added to read:

13 § 4816. SEASONAL APPLICATION OF MANURE

14 (a) Prohibition on application. A person shall not apply manure to land in
15 the State between December 15 and April 1 of any calendar year unless
16 authorized by this section.

17 (b) Extension of prohibition. The Secretary of Agriculture, Food and
18 Markets shall amend the accepted agricultural practices by rule in order to
19 establish a process under which the Secretary may prohibit the application of
20 manure to land in the State between December 1 and December 15 and
21 between April 1 and April 30 of any calendar year when the Secretary

1 determines that due to weather conditions, soil conditions, or other limitations,
2 application of manure to land would pose a significant potential of discharge or
3 runoff to State waters.

4 (c) Seasonal exemption. The Secretary of Agriculture, Food and Markets
5 shall amend the accepted agricultural practices by rule in order to establish a
6 process under which the Secretary may authorize an exemption to the
7 prohibition on the application of manure to land in the State between
8 December 15 and April 1 of any calendar year or during any period established
9 under subsection (b) of this section when manure is prohibited from
10 application. Any process established for the issuance of an exemption under
11 the accepted agricultural practices may authorize land application of manure
12 on a weekly, monthly, or seasonal basis or in authorized regions, areas, or
13 fields in the State, provided that any exemption shall:

14 (1) prohibit application of manure:

15 (A) in areas with established channels of concentrated stormwater
16 runoff to surface waters, including ditches and ravines;

17 (B) in nonharvested permanent vegetative buffers;

18 (C) in a nonfarmed wetland, as that term is defined in 10 V.S.A.
19 § 902(5);

20 (D) within 50 feet of a potable water supply, as that term is defined in
21 10 V.S.A. § 1972(6);

1 (E) to fields exceeding tolerable soil loss; and

2 (F) to saturated soils;

3 (2) establish requirements for the application of manure when frozen or
4 snow-covered soils prevent effective incorporation at the time of application;

5 (3) require manure to be applied according to a nutrient management
6 plan; and

7 (4) establish the maximum tons of manure that may be applied per acre
8 during any one application.

9 Sec. 16. SMALL FARM AGRICULTURAL WATER QUALITY TRAINING

10 On or before January 15, 2015, the Secretary of Agriculture, Food and
11 Markets shall submit to the Senate Committee on Agriculture and the House
12 Committee on Agriculture and Forest Products a proposed voluntary training
13 program for owners or operators of small farms. The proposed voluntary
14 training program shall include:

15 (1) the prevention of discharges, as that term is defined in 10 V.S.A.
16 § 1251(3);

17 (2) the requirements for small farms under the accepted agricultural
18 practices;

19 (3) the mitigation and management from farms of stormwater runoff, as
20 that term is defined in 10 V.S.A. § 1264.

1 (4) the existing statutory and regulatory requirements for operation of a
2 small farm in the State; and

3 (5) address the management practices and technical and financial
4 resources available to assist in compliance with statutory or regulatory
5 agricultural requirements.

6 Sec. 17. EFFECTIVE DATES

7 This section and Secs. 12 (AAFM emergency authority), 13 (captive deer
8 testing), and 14 (corrective actions; agricultural water quality) shall take effect
9 on passage. All other sections shall take effect on July 1, 2014.

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14 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE