

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 Secs. 11 and 12 in their entirety and inserting in
9 lieu thereof new Secs. 11, 12, and 13 to read as follows:

10 * * * Emergency Authority * * *

11 Sec. 11. 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 **(b) The Secretary shall have the authority to:**
- 2 **(1) respond to and remediate incidences of mass animal death,**
- 3 **agricultural structure fires, or other emergencies on a farm in order to prevent a**
- 4 **public health hazard;**
- 5 **(2) condemn, confiscate, or establish restrictions on the use, sale, or**
- 6 **distribution of adulterated raw agricultural commodities or animal feed; and**
- 7 **(3) cooperate with the Department of Health and other State and federal**
- 8 **agencies regarding:**
- 9 **(A) the prevention or remediation of the adulteration of raw**
- 10 **agricultural commodities, food, or animal feed on farms; and**
- 11 **(B) application of the FDA Food Safety Modernization Act,**
- 12 **21 U.S.C. §§ 2201–2252, to farms, farm products, or value-added products**
- 13 **produced in the State.**

14 * * * Testing of Captive Deer * * *

15 Sec. 12. 6 V.S.A. § 1165 is amended to read:

16 **§ 1165. TESTING OF CAPTIVE DEER**

17 **(a) Definitions. As used in this section:**

18 **(1) “Captive deer operation” means a place where deer are privately or**

19 **publicly maintained or held for economic or other purposes within a perimeter**

20 **fence or confined space.**

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

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

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

10 * * * Agricultural Water Quality* * *

11 Sec. 13. 6 V.S.A. § 4812 is amended to read:

12 § 4812. CORRECTIVE ACTIONS

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

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

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

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

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

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

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

4 [Repealed.]

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

10 Sec. 14. 6 V.S.A. § 4816 is added to read:

11 § 4816. SEASONAL APPLICATION OF MANURE

12 (a) Unless authorized under subsection (b) of this section, a person shall
13 not apply manure to land in the State:

14 (1) between December 15 and April 1 of any calendar year; or

15 (2) between December 1 and December 15 and between April 1 and
16 April 30 of any calendar year when prohibited under subsection (c) of this
17 section.

18 (b) Seasonal exemption.

19 (1) The Secretary of Agriculture, Food and Markets may authorize an
20 exemption to the prohibition on the application of manure to land in the State
21 between December 15 and April 1 of any calendar year or during any period

1 established under subsection (c) of this section when manure is prohibited from
2 application. An exemption issued under this section may authorize land
3 application of manure on a weekly, monthly, or seasonal basis or in authorized
4 regions, areas, or fields in the State, provided that the requirements of
5 subdivision (2) of this subsection are complied with.

6 (2) Any exemption issued under this subsection shall:

7 (A) prohibit application of manure:

8 (i) in areas with established channels of concentrated stormwater
9 runoff to surface waters, including ditches and ravines;

10 (ii) in nonharvested permanent vegetative buffers;

11 (iii) in a nonfarmed wetland, as that term is defined in 10 V.S.A.

12 § 902(5);

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

15 (v) to fields exceeding tolerable soil loss; and

16 (vi) to saturated soils;

17 (B) establish requirements for the application of manure when frozen
18 or snow-covered soils prevent effective incorporation at the time of
19 application;

20 (C) require manure to be applied according to a nutrient management
21 plan; and

1 (D) establish the maximum tons of manure that may be applied per
2 acre during any one application.

3 (c) Restriction on application. The Secretary of Agriculture, Food and
4 Markets may by procedure prohibit the application of manure to land in the
5 State between December 1 and December 15 and April 1 and April 30 of any
6 calendar year when the Secretary determines that due to weather conditions,
7 soil conditions, or other limitations, application of manure to land would pose
8 a significant potential of discharge or runoff to State waters.

9 Sec. 15. SMALL FARM AGRICULTURAL WATER QUALITY TRAINING

10 (a) The Secretary of Agriculture, Food and Markets shall establish a
11 voluntary training program for owners or operators of small farms regarding:

12 (1) the prevention of discharges, as that term is defined in 10 V.S.A.
13 § 1251(3); and

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

16 (b) Any training provided under this section shall:

17 (1) address the existing statutory and regulatory requirements for
18 operation of a small farm in the State; and

19 (2) address the management practices and technical and financial
20 resources available to assist in compliance with statutory or regulatory
21 agricultural requirements.

1 Sec. 16. EFFECTIVE DATES

2 This section and Secs. 11 (AAFM emergency authority), 12 (captive deer
3 testing), and 13 (corrective actions; agricultural water quality) shall take effect
4 on passage. All other sections shall take effect on July 1, 2014.

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7 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE