

1 Introduced by Committee on Agriculture and Forest Products

2 Date:

3 Subject: Agriculture; dairy operations; weights and measures

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

13 An act relating to miscellaneous agricultural subjects

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

15 * * * Apple Marketing Board * * *

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

17 § 252. ~~VERMONT APPLE MARKETING BOARD~~

18 ~~(a) The Vermont apple marketing board is hereby created. It shall consist~~
19 ~~of seven voting members. They shall be the secretary of agriculture, food and~~
20 ~~markets, who shall be the chair, and six producers who are appointed by the~~

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

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

10 ~~(e) The duties and responsibilities of the board shall include:~~

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

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

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

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

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

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

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

3 ~~§ 253. POWERS AND DUTIES OF THE VERMONT APPLE MARKETING~~
4 ~~BOARD~~

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

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

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

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

18 ~~(2) provision for determining the handling and marketing conditions of~~
19 ~~apples;~~

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

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

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

14 **Sec. 2. UNEXPENDED FUNDS OF APPLE MARKETING BOARD**

15 Notwithstanding the requirements of 6 V.S.A. § 253, the Secretary of
16 Agriculture, Food and Markets shall award the unexpended funds of the Apple
17 Marketing Board as a grant to the Vermont Tree Fruit Growers Association for
18 the purpose of the promotion and marketing of the State's fruit tree sector.

1 * * * Pesticide Applicators; Liability Insurance * * *

2 Sec. 3. 6 V.S.A. § 1106 is amended to read:

3 § 1106. FINANCIAL RESPONSIBILITY

4 The ~~secretary~~ Secretary may require from a licensee or an applicant for a
5 license under this chapter evidence of his or her financial ability to properly
6 indemnify persons suffering damage from the use or application of economic
7 poison, in the form of a surety bond, liability insurance or cash deposit, ~~none of~~
8 ~~which shall exceed \$10,000.00~~ of at least \$1,000,000.00, but this section shall
9 neither restrict nor enlarge the liability of any person under applicable laws.

10 * * * Dairy Operations; Milk Handlers * * *

11 Sec. 4. 6 V.S.A. § 2674 is amended to read:

12 § 2674. RECORDS AND REPORTS-HANDLERS

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

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

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

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

10 (b) A milk handler that is licensed under this chapter and that withdraws
11 more than 57,600 gallons of groundwater per day averaged over any
12 30-consecutive-day period shall annually report estimated water use to the
13 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
14 Markets. The ~~secretary of agriculture, food and markets~~ Secretary of
15 Agriculture, Food and Markets shall share information reported under this
16 section with the ~~agency of natural resources~~ Agency of Natural Resources.

17 Sec. **5**. 6 V.S.A. § 2722 is amended to read:

18 § 2722. APPLICATION

19 Applications shall be completely filled out and sworn to by the applicant or
20 a partner or officer thereof and in case of renewal shall be filed with the
21 ~~secretary by June 1~~ Secretary on or before July 15 of each year. New handlers

1 may apply for a license at any time. Renewal applications not received by
2 ~~July 1~~ on or before August 1 shall be assessed a late fee of \$50.00. The
3 application for a handler's license shall provide the following information and
4 such other information as the ~~secretary~~ Secretary by regulation shall
5 reasonably require:

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

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

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

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

18 (B) the anticipated supply of milk and the daily quantity to be
19 purchased from such sources. If a handler buys milk, or represents that he or
20 she intends to buy milk, from Vermont producers, he or she shall provide a
21 sworn balance sheet showing assets and liabilities and a profit and loss

1 statement as of the end of the handler's preceding fiscal year and such other
2 information regarding its financial condition as the ~~secretary~~ Secretary may
3 require. ~~In the case of a new application, these~~ Upon the request of the
4 Secretary, the financial statements shall be accompanied by an opinion of a
5 certified public accountant.

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

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

19 ~~(6)(E) In the case of a new application, the applicant shall provide such~~
20 The results of health tests certified by an appropriate public agency as the
21 ~~secretary~~ Secretary shall by regulation require. The ~~secretary~~ Secretary may

1 issue regulations establishing what tests ~~must~~ shall be administered and by
2 whom they ~~must~~ shall be certified.

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

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

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

8 § 2723. EXEMPTIONS

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

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

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

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

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

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

2 Sec. **7**. 6 V.S.A. § 2724(b) is amended to read:

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

1 * * * Bulk Milk Tanks; Calibration * * *

2 Sec. 8. 9 V.S.A. § 2692(b) is amended to read:

3 (b) Whenever a check of a bulk milk tank by the Agency of Agriculture,
4 Food and Markets or by a competent person or agency indicates a tank
5 calibration is not accurate within official tolerances, the ~~Secretary~~ first handler
6 receiving milk from the producer shall recalibrate the tank, unless the
7 out-of-tolerance is caused by movement of the tank and the Secretary feels
8 there will be continued movement, then the recalibration shall not be
9 performed until a solid foundation has been constructed.

10 * * * Weights and Measures; Exemptions * * *

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

12 § 2730. LICENSING FOR OPERATION OF WEIGHING AND
13 MEASURING DEVICES

14 * * *

15 (b) No person shall operate a commercial weighing and measuring device
16 without first obtaining a license from the Secretary. Any person operating
17 commercial weighing and measuring devices at more than one location, or in
18 more than one motor vehicle, shall obtain a separate license for each location
19 or vehicle.

20 (c) Any person wishing to obtain a license to operate a weighing or
21 measuring device shall annually apply to the Secretary, on forms provided by

1 the ~~secretary~~ Secretary, on or before January 1. Each application shall be
2 accompanied by a fee as specified in this section. Except for new applicants,
3 any applicant who applies for a license after January 1 shall pay an additional
4 late fee equal to 10 percent of the specified fee.

5 * * *

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

- 8 (A) Retail motor fuel dispenser meter: \$15.00.
- 9 (B) Vehicle tank meter: \$100.00.
- 10 (C) Scales: \$10.00.
- 11 (D) Vehicle and heavy duty scales: \$150.00.
- 12 (E) Taxi meter: \$10.00.
- 13 (F) Meter: \$15.00.
- 14 (G) Bulk plant meter: \$100.00.
- 15 (H) Truck mounted propane meter: \$150.00.
- 16 (I) Hopper scales: \$100.00.
- 17 (J) Propane fill station: \$50.00.
- 18 (K) Medium duty scales:
 - 19 portable platform scales: \$30.00.
 - 20 all others: \$30.00.

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

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

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

8 ~~(2) Any person who operates three or fewer motor fuel dispensers shall~~
9 ~~be exempt from the license fee requirement of subdivision (f)(1)(A) of this~~
10 ~~section.~~

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

1 (h) The Secretary may waive the license fee for medium duty scales for
2 commercial enterprises ~~which~~ that operate the scales primarily as a public
3 service.

4 * * *

5 * * * Effective Date * * *

6 Sec. **10**. EFFECTIVE DATE

7 This act shall take effect on July 1, 2014.