

1 Introduced by Committee on Agriculture and Forest Products

2 Date:

3 Subject: Agriculture; general powers; public health hazard; adulterated
4 commodities

5 Statement of purpose of bill as introduced: This bill proposes to authorize the
6 Secretary of Agriculture, Food and Markets to respond to public health hazards
7 and other emergencies on farms. In addition, the bill would authorize the
8 Secretary of Agriculture, Food and Markets to cooperate with State and federal
9 agencies regarding the prevention of adulteration of food and compliance with
10 food safety laws.

11 An act relating to the authority of the Secretary of Agriculture, Food and
12 Markets to respond to and remediate potential public health hazards

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

14 Sec. 1. 6 V.S.A. § 21 is added to read:

15 § 21. AUTHORITY TO ADDRESS PUBLIC HEALTH HAZARDS AND
16 FOOD SAFETY ISSUES

17 (a) As used in this section:

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

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

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

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

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

11 (A) the number of persons at risk;

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

13 (C) the characteristics of the condition or agent which is the source of
14 potential harm;

15 (D) the availability of private remedies;

16 (E) the geographical area and characteristics thereof where the
17 condition or agent that is the source of the potential harm or the receptors
18 exist; and

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

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

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

5 (b) The Secretary shall have the authority to:

6 (1) Respond to and remediate incidences of mass animal death,
7 agricultural structure fires, or other emergencies on a farm in order to prevent a
8 public health hazard.

9 (2) Condemn, confiscate, or establish restrictions on the use, sale, or
10 distribution of adulterated raw agricultural commodities or animal feed.

11 (3)(A) Require from the owner of a farm reimbursement of costs,
12 including time of Agency personnel, expended by the Agency of Agriculture,
13 Food and Markets to prevent or remediate the threat of a public health hazard
14 on the farm caused by an emergency, provided that:

15 (i) the Secretary may require reimbursement only of costs incurred
16 by the Agency in excess of \$3,000.00; and

17 (ii) the Secretary may require reimbursement only when the farm
18 owner is due an insurance payment or other compensation as a result of the
19 emergency.

20 (B) If a farm owner who receives a reimbursement request under this
21 subdivision (3) fails to pay the requested reimbursement, there shall be created

1 on the farm a lien in the amount of the reimbursement request and accrued
2 interest on that amount. The lien shall arise at the time demand is made by the
3 Secretary and shall continue until the liability for such sum with interest and
4 costs is satisfied or becomes unenforceable. A lien under this subdivision shall
5 be subordinate to a primary mortgage on the property. Notice of a lien under
6 this subdivision shall be recorded in the land records of the town in which the
7 property is located.

8 (4) Cooperate with the Department of Health and other State and federal
9 agencies regarding:

10 (A) the prevention or remediation of the adulteration of raw
11 agricultural commodities, food, or animal feed or farms; and

12 (B) application of the FDA Food Safety Modernization Act,
13 21 U.S.C. §§ 2201–2252, to farms, farm products, or value added-products
14 produced in the State.

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on passage.