

1 H.495

2 Introduced by Committee on Agriculture and Forestry

3 Date:

4 Subject: Agriculture; miscellaneous subjects

5 Statement of purpose of bill as introduced: This bill proposes to amend  
6 multiple provisions of law administered by the Agency of Agriculture, Food  
7 and Markets. The bill would amend provisions related to administrative  
8 penalties issued by the Agency. The bill would provide that rights or interests  
9 in real property acquired by the Secretary of Agriculture, Food and Markets  
10 through transactions funded in whole or in part by the Vermont Housing and  
11 Conservation Board are deemed as accepted by the Governor. The bill also  
12 would provide that an applicant for licensure or relicensure of a commercial  
13 slaughter facility has the option of submitting a good commercial practices  
14 plan for poultry instead of a livestock handling plan. In addition, the bill  
15 provides that a person who applies for a license to operate a weighing or  
16 measuring device after January 1 of each year shall be assessed a late fee  
17 according to the Agency's general authority for assessing late fees.

18 An act relating to miscellaneous agriculture subjects

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

1 Sec. 1. 6 V.S.A. § 13 is amended to read:

2 \* \* \* Administrative Penalty Process \* \* \*

3 § 13. ASSURANCES OF DISCONTINUANCE

4 (a) As an alternative to administrative or judicial proceedings, the ~~secretary~~  
5 Secretary may accept an assurance of discontinuance of any violation. An  
6 assurance of discontinuance may include, ~~but need not be limited to:~~

7 (1) specific actions to be taken;

8 (2) abatement or mitigation schedules;

9 (3) payment of a civil or administrative penalty and the costs of  
10 investigation; or

11 (4) payment of an amount to be held in escrow pending the outcome of  
12 an action, or as restitution to aggrieved persons.

13 (b) An assurance of discontinuance shall be in writing, and may by its  
14 terms be filed with the ~~superior court~~ Superior Court having jurisdiction over  
15 the subject matter and become an order of the court. Evidence of a violation  
16 of an assurance of discontinuance shall be prima facie proof of the violation.

17 (c) Any violation of an assurance of discontinuance shall constitute a  
18 separate and distinct offense of the underlying regulatory program and shall be  
19 subject to the applicable general penalties for violations of the law under that  
20 program, in addition to any other applicable penalties.

21 (d) Costs of investigations collected under subsection (a) of this section

1 shall be credited to a special fund and shall be available to the ~~agency~~ Agency  
2 to offset these costs.

3 Sec. 2. 6 V.S.A. § 16 is amended to read:

4 § 16. NOTICE AND FAIR HEARING REQUIREMENTS

5 (a) The ~~secretary~~ Secretary shall use the following procedures in assessing  
6 the penalty under section 15 of this title: the alleged violator shall be given an  
7 opportunity for hearing after reasonable notice and the notice shall be served  
8 by personal service or by certified mail, ~~return receipt requested~~ sent to the last  
9 address of record on file with the Agency. If the alleged violator is not an  
10 applicant for or holder of a license, permit, registration, or certification issued  
11 by the Agency, the notice shall be served by personal service or by certified  
12 mail, return receipt requested. The notice shall include:

13 (1) a A statement of the legal authority and jurisdiction under which the  
14 hearing is to be held;

15 (2) a A statement of the matter at issue, including reference to the  
16 particular statute or administrative rule allegedly violated and a factual  
17 description of the alleged violation;

18 (3) ~~the~~ The amount of the proposed administrative penalty; and required  
19 corrective action, abatement, or mitigation.

20 (4) a A warning that the decision shall become final and the penalty  
21 imposed if no hearing is requested within 15 days of ~~receipt~~ service of the

1 notice. The notice shall specify the requirements ~~which~~ that must be met in  
2 order to avoid being deemed to have waived the right to a hearing, or the  
3 manner of payment if the person elects to pay the penalty and waive a hearing.

4 (b) Any person who receives notification pursuant to this section shall be  
5 deemed to have waived the right to a hearing unless, within 15 days of the  
6 receipt of the notice, the person requests a hearing in writing. If the person  
7 waives the right to a hearing, the ~~secretary~~ Secretary shall issue a final order  
8 finding the person in default and imposing the penalty and any required  
9 corrective action, abatement, or mitigation. A copy of the final default order  
10 shall be ~~sent to~~ served upon the violator by certified mail, return receipt  
11 requested or by personal service.

12 (c) When an alleged violator requests a hearing in a timely fashion, the  
13 ~~secretary~~ Secretary shall hold the hearing pursuant to 3 V.S.A. chapter 25.

14 Sec. 3. 6 V.S.A. § 17 is amended to read:

15 § 17. COLLECTIONS

16 (a) The ~~secretary~~ Secretary may collect an unpaid administrative or civil  
17 penalty by filing a civil collection action in any ~~district or superior court,~~  
18 Superior Court or through any other means available to state State agencies.

19 (b) The ~~secretary~~ Secretary may, subject to 3 V.S.A. chapter 25, suspend  
20 any license, certificate, registration, or permit issued pursuant to his or her  
21 authority for failure to pay a penalty under this chapter more than ~~60~~ 45 days

1 after the penalty was ~~issued~~ imposed by order and served.

2 \* \* \* Acceptance of Gifts of Real Property \* \* \*

3 Sec. 4. 6 V.S.A. § 14 is amended to read:

4 § 14. ACCEPTANCE OF GIFTS OF REAL PROPERTY

5 The ~~secretary~~ Secretary, with the approval of the ~~governor~~ Governor, may  
6 accept gifts of the rights and interests in real property in the manner provided  
7 by 10 V.S.A. chapter 155. Rights or interests in real property acquired by the  
8 Secretary through transactions funded in whole or in part by the Vermont  
9 Housing and Conservation Board are deemed as accepted by the Governor.

10 \* \* \* Meat Inspection \* \* \*

11 Sec. 5. 6 V.S.A. § 3306(i) is amended to read:

12 (i) All applicants for licensure or relicensure as a commercial slaughter  
13 facility shall submit a written humane livestock handling plan or a good  
14 commercial practices plan for poultry for review and approval by the Secretary  
15 of Agriculture, Food and Markets or designee. The Secretary may suspend,  
16 revoke, or condition any commercial slaughter facility license, after notice and  
17 opportunity for hearing, for a licensee's failure to adhere to the written plan.

18 \* \* \* Weights and Measures \* \* \*

19 Sec. 6. 9 V.S.A. § 2730(c) is amended to read:

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, on or before January 1. Each application shall be accompanied  
2 by a fee as specified in this section. Except for new applicants, any applicant  
3 who applies for a license after January 1 shall pay an additional late fee equal  
4 to ~~10 percent of the specified fee~~ a late fee as provided for under 6 V.S.A.  
5 § 1(a)(13).

6 \* \* \* Working Lands \* \* \*

7 Sec. 7. 6 V.S.A. § 4607(b) is amended to read:

8 (b) Powers. The Vermont Working Lands Enterprise Board shall have the  
9 authority:

10 \* \* \*

11 (6) to establish an application process and eligibility criteria for  
12 awarding grants, loans, incentives, and other investments in agricultural and  
13 forestry enterprises and in food and forest systems, ~~provided that the Board~~  
14 ~~shall prioritize assistance under this chapter to a person engaged in farming or~~  
15 ~~forestry before providing assistance to a nonprofit organization or nonprofit~~  
16 ~~corporation for a project that competes with a person engaged in farming or~~  
17 ~~forestry;~~

18 \* \* \*

19 \* \* \* Effective Date \* \* \*

20 Sec. 8. EFFECTIVE DATE

21 This act shall take effect on July 1, 2017.