

H.904

An act relating to miscellaneous agricultural subjects

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

\* \* \* Produce Inspection \* \* \*

Sec. 1. 6 V.S.A. § 21(b) is amended to read:

(b) The Secretary shall have the authority to:

(1) respond to and remediate incidences of mass animal death, agricultural structure fires, or other emergencies on a farm in order to prevent a public health hazard;

(2) condemn, confiscate, or establish restrictions on the use, sale, or distribution of adulterated raw agricultural commodities or animal feed; and

(3) cooperate with the Department of Health and other State and federal agencies regarding:

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

(B) application of the FDA Food Safety Modernization Act, ~~21 U.S.C. §§ 2201-2252~~ Pub. L. No. 111-353, to farms, farm products, or value-added products produced in the State.

Sec. 2. 6 V.S.A. § 852 is amended to read:

§ 852. AUTHORITY; ~~ENFORCEMENT~~

(a) The Secretary may enforce in the State the requirements of:

(1) the rules adopted under the ~~federal~~ U.S. Food and Drug Administration Food Safety Modernization Act, Public Law No. 111-353, for standards for growing, harvesting, packing, and holding of produce for human consumption Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112; and

(2) the rules adopted under this chapter.

(b) The Agency may collaborate with the ~~Vermont~~ Department of Health regarding application of the ~~federal Food Safety Modernization Act and the rules adopted thereunder~~ U.S. Food and Drug Administration Food Safety Modernization Act, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112, and application of the rules adopted under this chapter.

(c) The Secretary shall carry out the provisions of this chapter using:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;

(2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and

(3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

Sec. 3. 6 V.S.A. § 853 is amended to read:

§ 853. FARM INSPECTIONS

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

(A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or

(B) the rules adopted under this chapter.

(2) This section shall not limit the Secretary's authority to respond to an emergency in order to prevent a public health hazard under section 21 of this title.

~~(b) After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.~~

(e) The Secretary may coordinate with other State agencies and organizations to carry out inspections at or near the same time on a given produce farm.

Sec. 4. 6 V.S.A. §§ 856 and 857 are added to read:

§ 856. ENFORCEMENT; CORRECTIVE ACTIONS

When the Secretary of Agriculture, Food and Markets determines that a person is violating the rules listed in section 852 of this title, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this section shall include:

- (1) a description of the alleged violation;
- (2) identification of this section;
- (3) identification of the applicable rule violated; and
- (4) the required corrective action that the person shall take to correct the violation.

§ 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

(a) Notwithstanding the requirements of section 856 of this title, the Secretary at any time may pursue one or more of the following:

- (1) issue a cease and desist order in accordance to a person the Secretary believes to be in violation of the rules listed in section 852 of this title;
- (2) issue a verbal order or written administrative order to protect public health, including orders for the stop sale, recall, embargo, destruction, quarantine, and release of produce, when:

(A) the U.S. Food and Drug Administration requires immediate State action; or

(B) an alleged violation, activity, or farm practice presents an immediate threat to the public health or welfare;

(3) order mandatory corrective actions;

(4) take any action authorized under chapter 1 of this title;

(5) seek administrative or civil penalties in accordance with the requirements of section 15, 16, or 17 of this title.

(b) When the Secretary of Agriculture, Food and Markets issues a cease and desist order, written administrative order, or required corrective action under subsection (a) of this section, the Secretary shall provide the person subject to the order or corrective action with a statement that the order or corrective action is effective upon receipt and the person has 15 days from the date the order or corrective action was issued to request a hearing.

(c) If the Secretary of Agriculture, Food and Markets issues a verbal order under this section, the Secretary shall issue written notice to the person subject to the order within five days of the issuance of the verbal order. The written notice shall include a statement that the person has 15 days from the date the written notice was received to request a hearing.

(d) If a person who receives a cease and desist order, a verbal order, an administrative order, or a mandatory corrective action under this section does not request in writing a hearing within 15 days of receipt of the order or within 15 days of written notice for a verbal order, the person's right to a hearing is

waived. Upon receipt of a written request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order, verbal order, or administrative order issued under this section shall not stay the order.

(e) A person aggrieved by a final action or decision of the Secretary under this section may appeal de novo to the Civil Division of the Superior Court within 30 days of the final decision of the Secretary.

\* \* \* Livestock and Poultry Transport for Slaughter \* \* \*

Sec. 5. 6 V.S.A. § 1461a(c) is amended to read:

(c) Livestock and poultry that are transported to a commercial slaughter facility within the State shall not be removed from the facility without the facility's ~~owner~~ owner's first obtaining written permission from the State Veterinarian. For purposes of this section, arrival of the conveyance onto facility property and the offloading of livestock or poultry constitutes transport to a slaughter facility, regardless of whether the animals have been ~~offloaded~~ ~~or~~ presented for antemortem inspection. The State Veterinarian may require inspection and testing prior to issuing consent for removal.

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

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.