

**H.495: An Act Relating to Miscellaneous Agricultural Subjects:
Section by Section Summary**

Secs. 1 through 3.

- The Agency of Agriculture issues administrative penalties for violations of statutes and rules it administers.
- The amendments in Sections 1 through 3 of the bill amend how the Agency issues these administrative penalties.
- The amendments are intended to clarify the administrative penalty process and conform the penalty process with Agency enforcement authority.

Sec. 1. 6 V.S.A. § 13. Assurances of Discontinuance

- Clarifies that an assurance of discontinuance (a settlement) between the Agency and a person can be used as an alternative to an administrative penalty.
- Currently, the section only allows the use of an assurance of discontinuance when the Agency is pursuing enforcement by a court.

Sec. 2. 6 V.S.A. § 16. Notice and Fair Hearing Requirements

- Amends how the Agency provides notice of an administrative penalty to an alleged violator.
 - Notice is currently served by personal service or certified mail with return receipt requested.
- Sec. 2 provides that notice shall be served by personal service or certified mail to the last address of record on file with the Agency.
- Sec. 2 also provides that if the alleged violator is not the holder of a license, permit, registration, or certification, the Agency shall send the notice return receipt requested.
 - This is because the Agency may not have an address for these persons.
- Sec. 2 also adds information that the notice to the alleged violator shall include. If the violation is of a rule, the Agency shall identify the administrative rule.
 - The notice also shall identify any required corrective action, abatement, or mitigation.

Sec. 3. 6 V.S.A. § 17. Collections

- Sec. 3 provides that the Agency can use its authority to collect unpaid administrative penalties in order to also collect unpaid civil penalties.
 - Civil penalties are issued by a court. Administrative penalties are issued by an agency.
- Sec. 3 also changes the time frame for when the Agency may suspend a license, certificate, registration, or permit for failure to pay a penalty.
 - Currently, the Agency must wait 60 days before suspension. Sec. 3 changes the time to 45 days.

Sec. 4. 6 V.S.A. § 14. Acceptance of Gifts of Real Property

- Current statutes allow the Secretary of Agriculture to accept gifts of land only with the approval of the Governor according to statutory standards.
- Sec. 4 provides that if the Secretary of Agriculture acquires rights or interests in property through a transaction funded by the Vermont Housing Conservation Board, the gift of the property is deemed accepted by the Governor.

Sec. 5. 6 V.S.A. § 3306(i). Meat Inspection; Good Commercial Practices Plan for Poultry

- Requires all applicants for a commercial slaughter license to submit a humane handling livestock plan or a good commercial practices plan for poultry.
 - Current law does not require a poultry producer to submit a good commercial practices plan.
 - A good commercial practices plan is intended to provide measures for the humane handling and slaughter of poultry.

Sec. 6. 9 V.S.A. § 2730(c). Weights and Measures; Late Fee

- The Agency of Agriculture administers and enforces weights and measures in the State and requires persons owning scales, scanners, and other mechanisms to obtain a license.
- Current law provides that when a fee for a weights and measures license is late, the Agency shall charge a late fee of 10% of the license fee.
 - Since the license fees can be as low as \$10, the 10% late fee is not much of a deterrent.
- Sec. 6 allows the Agency to charge a late fee under its general enforcement authority in 6 V.S.A. § 1.
 - A late fee under this authority is \$27.00, provided the late fee is no greater than the license fee due.

Sec. 7. 6 V.S.A. § 4607(b). Working Lands Enterprise Board

- Sec. 7 strikes the requirement that the Working Lands Enterprise Board prioritize awards to persons engaged in farming or forestry before providing assistance to a nonprofit organization for a project that competes with the person engaged in farming or forestry.
 - The Working Lands Enterprise Board had difficulty applying this language, because it was difficult to determine when a nonprofit organization was “competing” with a person engaged in farming or forestry.
- Consequently, the Board did not provide awards to some potentially deserving non-profits.
- The Committee heard no real world issue or problem with non-profits competing with persons engaged in farming or forestry.

Sec. 8. Effective Date

- The act takes effect July 1, 2017.