

H.656. An Act Relating to Miscellaneous Agricultural Subject
Section by Section Summary

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Sec. 1. 6 V.S.A. § 324. Commercial Feed

- Prohibits the distribution of a commercial feed product in the State that is labeled as bait or feed for white-tailed deer. Feeding deer in Vermont is prohibited.

Sec. 2. 6 V.S.A. § 768. Livestock Management

- Current statute requires livestock dealers, transporters, or packers to comply with federal recordkeeping rules for animals transported, sold, or processed.
- But, there are certain actions, usually intrastate transport, that are not subject to the federal rules.
- Section 2 would require livestock dealers, transporters, and packers to maintain records for those activities exempt from the federal requirements.
- The records would include: livestock purchased, repossessed, sold, or loaned; who the livestock was obtained from; and the official ID number for the livestock.

Sec. 3. 6 V.S.A. § 1165. Testing of Captive Deer

- Currently, under State law and federal rules, captive deer must be tested for chronic wasting disease when they die or are slaughtered.
- Currently, statute requires the Agency of Agriculture to pay the costs of testing.
- Section 3 would require the person operating the captive deer facility to pay the costs of testing.

Sec. 4. 6 V.S.A. § 1461a. Intrastate Movement of Livestock

- Statute requires livestock transported inside the State to comply with the federal requirements for animal identification and traceability.
- However, there are some instances where the Agency believes that these requirements are not needed, such as moving livestock between your own farms.
- Section 4 gives the Agency the authority to waive the identification requirement for certain types or categories of intrastate livestock transport.

Sec. 5. 6 V.S.A. § 3023. Apiary Report

- Provides that the location of apiaries reported to the Agency shall become the registered location if the apiary is located according to statutory requirements.
- Strikes the term “serious” before disease--it is redundant because the definition of disease provides that a disease is a serious malady in an apiary.
- Requires an apiary to notify the Agency of the detection of American foulbrood or other designated disease in an apiary as soon as practicable.

Sec. 6. 6 V.S.A. § 3025. Apiary Testing Laboratory

- Authorizes the Agency of Agriculture to approve the laboratories testing apiaries for disease.

Sec. 7. 6 V.S.A. § 3028. Apiary Inspection; Frequency

- Amends the requirement for inspection of apiary when a person is rearing bees for sale.
- Current statute requires the apiary to be inspected at least twice during the summer.
- Sec, 7 requires an apiary to be inspected once each summer prior to sale of bees from the apiary.

Sec. 8. 6 V.S.A. § 3032. Transportation of Bees or Used Equipment into the State

- When bees or equipment used for bees is transported into the State, current law requires that the person bringing the bees into the state provide the Agency of Agriculture with a certificate of inspection within 72 hours of entering the state.
- Section 8 would require that the person provide an approved import permit and a certificate of inspection to the Agency no less than 10 days prior to delivery.
 - Providing the inspection prior to delivery is a common practice in other states.
- Under current law, an inspection is not required for re-entry of Vermont bees that are moved not more than 75 miles across borders for pollination.
- Current law requires that the bees transported less than 75 miles for pollination be re-enter the State within 90 days of leaving. Section 8 would change that to 30 days from leaving.

Sec. 9. 6 V.S.A. § 3033 Shipping Bees; Serious Disease

- Strikes the term “serious” before disease, as it is redundant.

Sec. 10. 6 V.S.A. § 3034. Apiary Locations

- Adds the word “or” at the end of the series of conditions where apiary location is allowed.

Sec. 11. 6 V.S.A. § 3302. Meat Inspection; Rabbits

- Vermont operates a livestock slaughter inspection program that is equal to the federal inspection program. Equal to status allows the State to qualify for federal funding and inspection assistance
- Slaughter of rabbits for sale is not required to be inspected by the Federal Meat Inspection Act. To maintain the same laws as the federal government, and maintain equal to status, rabbits are being struck from the definition of livestock subject to slaughter inspection.
- Rabbits still may be voluntarily inspected under federal law. And rabbit meat must not be adulterated under the FDA rules for sale of food.

Secs. 12-13. 6 V.S.A. §§ 4831, 4832; Reorganization; Seeding Filter Strip; Agronomic Practices

- Section 12 moves two existing agricultural water quality financing programs, the Seeding and Filter Strip Program and the Farm Agronomic Practices Program, from their current place in statute to the existing subchapter in law for agricultural water quality financing.
- No substantive changes are made to the language. They are being moved in the exact form they exist today. This simply consolidates the water quality financing programs in one subchapter.
- Section 13 repeals the two programs where they exist in current law.

Sec. 14. 6 V.S.A. § 4871(d). RAPs; Obsolete Date

- Section 14 strikes a dates in statute by which the Agency of Agriculture was required to amend the RAPs to establish requirements for small farms. The Agency met that deadline, and the date is no longer relevant.

Sec. 15. 6 V.S.A. § 4988. Certification of Custom Applicators

- Custom applicators are persons who for consideration apply manure or nutrients on the fields.
- Custom applicators must be certified by the Agency of Agriculture, but there is an exception--a farmer is not required to be certified to apply manure or agricultural waste on their own fields.
- Section 15 would establish a second exception, allowing a farmer to apply manure or agricultural waste to the fields of another farmer provided that total annual volume applied is less than 50 percent of the annual manure or agricultural waste by volume generated on the farm where the manure is spread
- The Secretary could approve additional spreading under this exception when circumstances require and application of the manure would not pose a significant potential of discharge or runoff to State waters.

Sec. 16. 6 V.S.A. § 4817. Nonsewage Waste

- Currently, certain waste such as food processing residuals are transported to farms for deposit in manure pits or methane digesters.
- The Agency of Natural Resources (ANR) used to track these shipments as waste and require the person transporting the material to provide records to ANR.
- However, ANR has taken the position that these materials are not waste because they are agricultural inputs used for nutrients or energy production.
- The Agency of Agriculture does not want to lose the information about these wastes that the ANR records requirements provided.
- Section 16 would allow the Agency of Agriculture to require persons transporting non-sewage waste to a farm for deposit into a manure pit or methane digester to report on the composition and volume of material transported.
- Section 16 also allows the Agency to prohibit the transport to farms of certain nonsewage wastes upon a determination that the import of the material would violate the nutrient management plan for the farm or otherwise present a threat to water quality.

Sec. 17. 9 V.S.A. § 2465a. Definition of Local; Local to Vermont; Locally Grown; Made in VT

- Section 17 amends the definition of local food under the consume protection act. The current definition lacks specificity to types of products or the various scenarios of how food is produced.
- Section 17 would define, “local,” “local to Vermont,” “locally grown or made in Vermont,” and any substantially similar term based on the type of food or food product.

- For products that are raw agricultural products, “local to Vermont” means the product:
 - was exclusively grown or tapped in Vermont;
 - is not milk and was derived from an animal that was raised for a substantial period of its lifetime in Vermont;
 - is milk where a majority of the milk was produced from Vermont animals; or
 - is honey produced by VT colonies located exclusively in VT when all nectar was collected.
- Except for bakery products, beverages, or unique food products, for products that are processed foods, “local to Vermont” means:
 - the majority of ingredients are raw agricultural products that are local to Vermont; and
 - the product meets one or both of the following criteria: the product was processed in Vermont; or the headquarters of the manufacturer of the product is located in Vermont.
- For bakery products, beverages, or unique food products, the product must meet two or more of the following criteria:
 - the majority of the ingredients are raw agricultural products that are local to Vermont;
 - substantial transformation of the ingredients in the product occurred in Vermont; or
 - the headquarters of the company that manufactures the product is located in Vermont.
- Section 17 also provides the criteria for when geographic terms are used with “local.”

Sec. 18. 9 V.S.A. § 2635. Weights and Measures; Available for Inspection

- The Agency of Agriculture has authority over the inspection of weights and scales in the State.
- Section 18 clarifies that when the Agency inspects weights and scales, the owner of a device shall make it available to the Agency for inspection during normal business hours.

Sec. 19. 9 V.S.A. § 2770. Weights and Measures; Administrative Penalties

- The current penalties for violations of weights and measures requirements are criminal fines or imprisonment.
- The Agency would prefer to pursue enforcement of certain weight and measures violations in a noncriminal manner.
- Section 19 gives the Agency administrative penalty authority under the weights and measures chapter by cross referencing the Agency’s general default administrative penalty authority.

Sec. 20. 10 V.S.A. § 374b(8). Vermont Agricultural Credit Program; Farm Operation

- The Vermont Agricultural Credit Program provides financing to farm operations.
- But, the definition of “farm operation” under the ag credit program does not include agritourism
- Section 20 would amend the definition of “farm operation” under the agricultural credit program to include the operation of an agritourism business on a farm subject to regulation under the Required Agricultural Practices.

Sec. 21. 10 V.S.A. § 4709. Import or Transport of Feral Swine

- This past summer numerous domestic pigs escaped from a farm in the State, and remained out of their enclosure for a prolonged time.
- This presented a problem for the Agency of Agriculture and the Department of Fish and Wildlife as escaped pigs can become feral, and feral pigs are a major problem in many states as they breed frequently, are difficult to control, and are destructive to crops and natural resources.
- As the Agency of Agriculture and the Department of Fish and Wildlife were responding to the escaped pigs, the agencies realized that there was a lack of authority for either agency to dispose of the pigs to prevent the dangers that they pose to the environmental and public health.
- Section 21 clarifies that a person shall not bring into or transport within the State feral swine, and the Commissioner of Fish and Wildlife shall not issue a permit for import of feral swine.
- Section 21 also defines what constitutes feral swine, which includes a domestic pig that is outside of an enclosure for more than 96 hours and is free roaming on public or private land;
- Section 21 provides that any feral swine may be removed or destroyed by the Department of Fish and Wildlife; the Agency of Agriculture, Food and Markets or a designee; or the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services.
- Any person who kills a feral swine in Vermont shall report to a State game warden and shall present the carcass to the State game warden within 24 hours.
- The State shall not be liable for damages or claims associated with the removal or destruction of feral swine provided that the actions of the State agents or designees are reasonable.
- Summary of Senate Amendment to Feral Pig Language:
 - H.656 provides # ways to determine if a pig is feral. One way is testing. The amendments strikes the requirement in 10 V.S.A. § 4709(f)(1)(C) that the testing be conducted at the National Wildlife Research Center. Testing may become available at other sites.
 - The amendment clarifies under 10 V.S.A. § 4709(f)(3) that an owner of an escaped domestic pig may request the Agency of Agriculture's (AAFM's) assistance in capturing the animals.
 - The amendment clarifies in 10 V.S.A. § 4709(f)(4) that the Department of Fish and Wildlife must notify AAFM before killing a feral swine only if the swine is an escaped domestic pig.
 - The amendment strikes a requirement in 10 V.S.A. § 4709(f)(7)(B)(v) that Fish and Wildlife consult with USDA in determining that feral swine could establish a breeding population.

Sec. 22. 13 V.S.A. § 351b. Animal Cruelty; Exemption of Taking of Feral Swine

- Section 22 provides that the destruction of feral swine is not animal cruelty when conducted according to the requirement added under Section 21 of the act.

Sec. 23. 20 V.S.A. § 3350. Public Safety Disposition of Feral Swine

- Title 20 chapter 191 is the public safety chapter that deals with the escape of animals.
- Section 23 adds a section to the chapter to find that feral pigs are a threat to human health and safety and that feral pigs may be destroyed as authorized under Section 22 of this act.

Sec. 24. Ecosystem Services Working Group

- Act 83 last year established a Ecosystems Working Group to recommend financial incentives to encourage farmers to implement practices to enhance soil health and improve water quality.
- The Working Group met and made significant progress, but they need additional time to fully address the charge that the General Assembly gave them.
- Sec. 24 extends the Working Group to 2022, renames it the Payment for Ecosystem Services and Soil Health Working Group, and adds members and authority of the group. No funds.

Sec. 25. Session Law Clarifying the Law Hemp will be Cultivated under in 2020 Season.

- In 2014, the federal farm bill authorized states to start hemp pilot programs supervised by a state agency of agriculture or a university. Vermont started a pilot program supervised by AAFM.
- In 2018, the federal farm bill authorized U.S.D.A. to regulate the sale and marketing of hemp, including approving state plans that allowed a state to regulate hemp within its boundaries. U.S.D.A. was directed to adopt rules to implement the hemp provisions in the 2018 farm bill.
- To prepare for a State hemp program, the legislature amended State hemp statutes in 2019 to direct AAFM to operate a State Hemp Program according to the 2018 farm bill and USDA rules.
- U.S.D.A. adopted an interim hemp rule in October 2019, but the rule will be difficult for states and hemp cultivators to comply with. States and hemp farmers are seeking changes to the rule.
- But, the interim rule provides that states with hemp pilot programs under the 2014 farm bill can continue to operate pilot programs until 1 year from issuance of the interim rule--Oct. 31, 2020.
- Because Vermont hemp growers cannot currently comply with the USDA rules and because the State has a pilot program, Sec. 25 clarifies that notwithstanding the statute requiring AAFM to administer the program under the 2018 farm bill, AAFM will regulate cultivation of hemp during the 2020 growing season under the 2014 pilot program and not under the USDA rules.
- This allows hemp farmers to cultivate hemp this growing season. Without the change, farmers will need to comply with the USDA rule, which is currently not possible for most hemp farmer.

Sec. 26. 6 V.S.A. § 571. Hemp Seed Labeling and Standards to the Hemp chapter

- Section 571(a) would prohibit a person from selling or distributing hemp seed that:
 - is not labeled in accordance with requirements of this section or rules adopted by AAFM;
 - fails to meet germination standards, feminized seed claims, or other label or advertisement claims or provides false or misleading information on a label or in an advertisement;
 - fails to meet certification standards if standards have been adopted by AAFM by rule; or
 - consists of or contains prohibited noxious weed seeds, as defined in 6 V.S.A. § 641.
- Section 571(b) would require hemp seed sold or distributed in the State to have a label attached to the bag or container in which the seed is sold or distributed. The label shall contain:
 - the name and kind of hemp seed present in excess of 5% of the whole percentage by weight;
 - the origin state or foreign country of the hemp seed;

- whether the hemp seed was certified by a state or foreign country;
 - the percentage by weight of any weed seeds in the container or bag;
 - the percentage by weight of inert matter in the container or bag;
 - the percentage of feminized seed;
 - the percentage of germination of the seed;
 - the date the seed was packed or packaged; and
 - the name and address of the person who labeled the seed or who sells or distributes the seed.
- Section 571(c) authorizes AAFM to issue stop sale orders for violations of the section.
 - Section 571(d) :violations are subject to administrative penalty under 6 V.S.A. § 569
 - The general penalty under § 569 is up to \$1,000. Sec. 569 does authorize penalties of up to \$5,000, but only for: failing to follow a corrective action plan after negligently growing hemp over the THC limit; violating requirements for hemp cultivation 3 times in a 5 year period; or producing hemp in violation of law with a state of mind greater than negligence.
 - Section 571(e) authorizes a person injured or damaged by a violation of the hemp seed statute or an AAFM hemp seed rule to bring an action for equitable relief or damages from the violation.
 - Section 571(f) authorizes AAFM to inspect and use enforcement tools under AAFM’s general authority to regulate seed, provided that any penalty must be assessed under the hemp chapter.

Sec. 27. 6 V.S.A. § 566. AAFM rulemaking authority under the Hemp Chapter.

- Section 566 authorizes AAFM to:
 - establish certification requirements for hemp seed sold or distributed in the State; and
 - require disclosure or labeling of the amount of cannabinoid known to be present in hemp seed sold or distributed in the State.

New Sec. 28. Added by Senate. VHCB; Authority 10 V.S.A. § 321

- Amends VHCB’s authority to provide that it with the general powers of a non-profit corporation.
- Allows VHCB to more readily access federal and other funds available to non-profit corporations.

New Sec. 29. Added by Senate. Repeal Of Sunset of Rural Economic Development Initiative

- Repeals the sunset on the Rural Economic Development Initiative (REDI) Program.

New Sec. 30. Added by Senate. Appropriations; VHCB; COVID-19 Consulting Services

- Appropriates \$192,000.00 from the CRF to VHCB to provide business, financial, and mental health assistance to farm and food businesses that suffered losses or expenses due to COVID-19.
- Services will include assistance with accessing federal and State COVID-19 relief funds, access to additional markets, diversification of income streams, access to mental health services, and other assistance farm and food businesses may require to address business interruption.

New Sec. 31. Added by Senate. DFR Oversight of Milk Pricing; Report

- Requires DFR to submit to the legislature an assessment and analyses of the long-term sustainability of Vermont dairy farming under the existing federal milk market order pricing system.
- The DFR report shall include: (1) an evaluation of the long-term sustainability of dairy farming in Vermont under the current conditions; and (2) recommendations, if any, for revising dairy pricing in the State to improve the future viability of dairy farming in the State.
- After receipt of the report, the Committee on Committees and the Speaker shall appoint a joint committee of legislators and experts to develop legislation to implement DFR's recommendations.

New Sec. 32. Added by Senate. Department of Forests, Parks and Recreation Testimony on Carbon Sequestration

- Requires Commissioner of Forests, Parks and Recreation to testify to legislature regarding the status of forest carbon sequestration programs and projects in the State.

New Sec. 33. Effective Dates

- The local food definition, ecosystem services working group, hemp growing season, REDI sunset repeal, and DFR milk pricing report take effect on passage. All other sections take effect July 1, 2020.