

1 Introduced by Committee on Agriculture and Forestry

2 Date:

3 Subject: Agriculture; food safety; hemp; noxious weeds; water quality

4 Statement of purpose of bill as introduced: This bill proposes to make

5 miscellaneous changes to agricultural issues or programs administered by the

6 Secretary of Agriculture, Food, and Markets.

7 An act relating to miscellaneous agricultural subjects

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

9 \* \* \* Agricultural Development \* \* \*

10 Sec. 1. 24 V.S.A. § 4412 is amended to read:

11 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

12 \* \* \*

13 (11) Accessory on-farm businesses. No bylaw shall have the effect of  
14 prohibiting an accessory on-farm business at the same location as a farm.

15 (A) Definitions. As used in this subdivision (11):

16 (i) “Accessory on-farm business” means activity that is accessory  
17 to a farm and comprises one or both of the following:

18 (I) The storage, preparation, processing, and sale of qualifying  
19 products, provided that more than 50 percent of the total annual sales are from

1 qualifying products that are ~~principally~~ produced on the farm at which the  
2 business is located.

3 \* \* \*

4 \* \* \* General Powers; Administration \* \* \*

5 Sec. 2. 6 V.S.A. § 1 is amended to read:

6 § 1. GENERAL POWERS OF AGENCY; SECRETARY OF  
7 AGRICULTURE, FOOD AND MARKETS

8 (a) The Agency of Agriculture, Food and Markets shall be administered by  
9 a Secretary of Agriculture, Food and Markets. The Secretary shall supervise  
10 and be responsible for the execution and enforcement of all laws relating to  
11 agriculture and standards of weight and measure. The Secretary may:

12 \* \* \*

13 (15) Notwithstanding any law to the contrary in this title, Title 9, or  
14 Title 20, whenever the Secretary is required or authorized to serve any person  
15 or entity by any means, including by personal service or certified mail, the  
16 Secretary may deliver service by electronic mail provided that the Secretary  
17 proves receipt of service or the person or entity agrees to accept electronic  
18 service. The Secretary may prove receipt of service whenever the person or  
19 entity acknowledges receipt or otherwise responds in a manner that  
20 demonstrates actual service. Proof of service may not be solely demonstrated  
21 by an automated electronic read receipt message. Any person or entity may

1 agree to accept service through electronic mail by written consent. The  
2 agreement to accept electronic mail service may be communicated through  
3 electronic mail and need not be signed.

4 \* \* \*

5 Sec. 3. 6 V.S.A. § 22 is added to read:

6 § 22. LICENSE APPLICATIONS AND PENDING ALLEGATIONS OR  
7 PAST VIOLATIONS

8 (a) Notwithstanding any law to the contrary in this title, Title 9, or Title 20,  
9 the Agency may simultaneously evaluate pending applications and ongoing  
10 compliance concerns, provided it affords proper notice and complies with  
11 section 16 of this title.

12 (b) Whenever a person or entity is applying for or attempting to renew a  
13 license, permit, registration, or other form of permission issued by the Agency,  
14 the Agency may consider that person or entity's alleged or proven failure to  
15 comply with related program requirements.

16 (c) If the Agency is considering denying an application or renewal request  
17 for a license, permit, registration, or other form of permission issued by the  
18 Agency because of pending allegations, proven violations, or any failure to  
19 comply with a final order or assurance of discontinuance, the Agency shall  
20 provide notice and an opportunity for hearing in accordance with section 16 of  
21 this title.



1 Sec. 4. 6 V.S.A. § 851 is amended to read:

2 § 851. DEFINITIONS

3 As used in this chapter:

4 (1) “Adulterated” shall have the same meaning as in 18 V.S.A. § 4059  
5 when applied to produce and shall include “adulteration” under rules adopted  
6 under 18 V.S.A. chapter 82.

7 (2) “Agency” means the Agency of Agriculture, Food and Markets.

8 ~~(2)(3)~~ “Farm” ~~means lands that are owned or leased by a person~~  
9 ~~engaged in any of the activities stated in 10 V.S.A. § 6001(22)~~ shall have the  
10 same meaning as used in 21 C.F.R. § 112.3.

11 ~~(3)(4)~~ “Produce” shall have the same meaning as used in 21 C.F.R. §  
12 112.3.

13 ~~(4)(5)~~ “Produce farm” means any farm engaged in the growing,  
14 harvesting, packing, or holding of produce.

15 ~~(5)(6)~~ “Secretary” means the Secretary of Agriculture, Food and  
16 Markets.

17 Sec. 5. 6 V.S.A. § 852 is amended to read:

18 § 852. AUTHORITY

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

20 (1) the rules adopted under the U.S. Food and Drug Administration  
21 Food Safety Modernization Act, Standards for Growing, Harvesting, Packing,

1 and Holding of Produce for Human Consumption, 21 C.F.R. part 112, using  
2 the same or similar powers granted to the U.S. Food and Drug Administration  
3 to enforce the Food Safety Modernization Act; and

4 (2) the rules adopted under this chapter.

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

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

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

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

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

18 (d) The Secretary may apply the criteria and definitions in 21 C.F.R. part  
19 112 to determine whether produce is adulterated.

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

21 § 853. FARM INSPECTIONS

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

3 (A) the federal standards for growing, harvesting, packing, and  
4 holding of produce for human consumption, as adopted under 21 C.F.R. part  
5 112; ~~or~~

6 (B) the rules adopted under this chapter; or

7 (C) eligibility for and conformity with the exemptions and modified  
8 requirements adopted under 21 C.F.R. part 112.

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

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

15 \* \* \* Mosquito Control \* \* \*

16 Sec. 7. 6 V.S.A. § 1085 is amended to read:

17 § 1085. MOSQUITO CONTROL GRANT PROGRAM

18 (a) A Mosquito Control District formed pursuant to 24 V.S.A. chapter 121  
19 may apply, in a manner prescribed by the Secretary, in writing to the Secretary  
20 of Agriculture, Food and Markets for a State assistance grant for mosquito  
21 control activities.

1 (b) After submission of an application under subsection (a) of this section,  
2 the Secretary of Agriculture, Food and Markets may award a grant of  
3 75 percent or less of the project costs for the purchase and application of  
4 larvicide and the costs associated with required larval survey activities within a  
5 Mosquito Control District. The Mosquito Control District may provide  
6 25 percent of the project costs through in-kind larvicide services, ~~including~~  
7 ~~adulticide application~~ or the purchase of capital equipment used for larval  
8 ~~mosquito control~~ activities. At the Secretary’s discretion, costs associated with  
9 capital equipment that may be required for larval control programs within a  
10 Mosquito Control District may be eligible for grant awards up to 75 percent of  
11 the total equipment costs.

12 \* \* \*

13 \* \* \* Hemp \* \* \*

14 Sec. 8. 6 V.S.A. chapter 34 is amended to read:

15 CHAPTER 34. HEMP

16 § 561. FINDINGS; INTENT

17 (a) Findings.

18 \* \* \*

19 (5) Section 10113 of the Agriculture Improvement Act of 2018, Pub. L.  
20 No. 115-334 authorizes the growing, cultivation, and marketing of ~~industrial~~  
21 hemp under a U.S. Department of Agriculture approved State program.



1 (6) The federal Agricultural Act of 2014, Pub. L. No. 113-79, Sec. 7606,  
2 codified at 7 U.S.C. § 5940, authorized states, subject to certain requirements,  
3 to implement agricultural pilot programs for the growing, cultivation, and  
4 marketing of ~~industrial~~ hemp, notwithstanding restrictions under the federal  
5 Controlled Substances Act. The pilot program was previously set to expire in  
6 2020, but states may now operate a pilot program in 2021. The pilot program  
7 and 7 U.S.C. § 5940 are currently scheduled for repeal on January 1, 2022.

8 \* \* \*

9 § 562. DEFINITIONS

10 As used in this chapter:

11 \* \* \*

12 (5) “Hemp” or ~~“industrial hemp”~~ means the plant Cannabis sativa L. and  
13 any part of the plant, including the seeds and all derivatives, extracts,  
14 cannabinoids, acids, salts, isomers, and salts of isomers, whether growing or  
15 not, with the federally defined tetrahydrocannabinol concentration level of  
16 hemp. “Hemp” shall be considered an agricultural commodity.

17 (6) “Process” means the storing, drying, trimming, handling,  
18 compounding, or converting of a hemp crop by a processor for a single grower  
19 or multiple growers into hemp products or hemp-infused products. “Process”  
20 includes transporting, aggregating, ~~or~~ packaging hemp from a single grower or

1 multiple growers, or manufacturing hemp products or hemp-infused products  
2 from hemp concentrate.

3 \* \* \*

4 § 563. HEMP; AN AGRICULTURAL PRODUCT

5 (a) ~~Industrial hemp~~ Hemp is an agricultural product that may be grown as a  
6 crop produced, possessed, marketed, and commercially traded in Vermont  
7 pursuant to the provisions of this chapter and section 10113 of the Agriculture  
8 Improvement Act of 2018, Pub. L. No. 115-334.

9 \* \* \*

10 (d) The cultivation of ~~industrial~~ hemp shall be subject to and comply with  
11 the required agricultural practices adopted under section 4810 of this title, as  
12 amended.

13 § 564. STATE HEMP PROGRAM; REGISTRATION; APPLICATION;  
14 ADMINISTRATION

15 (a) The Secretary ~~shall~~ may establish and administer a State Hemp Program  
16 to regulate the growing, processing, testing, ~~and or~~ or marketing of ~~industrial~~  
17 hemp and hemp products in the State.

18 \* \* \*

19 (d) A person registered under this section may purchase or import hemp  
20 genetics from any state that complies with the federal requirements for the  
21 cultivation of ~~industrial~~ hemp.

1 (e) A person registered with the Secretary under this section to grow,  
2 process, or test hemp crops or hemp products shall allow the Secretary to  
3 inspect hemp crops, processing sites, or laboratories registered under the State  
4 Hemp Program. The Secretary shall retain tests and inspection information  
5 collected under this section for the purposes of research of the growth and  
6 cultivation of ~~industrial~~ hemp.

7 \* \* \*

8 § 565. [Repealed.]

9 § 566. RULEMAKING AUTHORITY

10 \* \* \*

11 (b) The Secretary ~~shall~~ may adopt rules establishing how the Agency of  
12 Agriculture, Food and Markets will conduct research within the Program for  
13 ~~industrial~~ hemp.

14 \* \* \*

15 § 567. AGENCY OF AGRICULTURE, FOOD AND MARKETS; TESTING

16 \* \* \*

17 § 568. TEST RESULTS; ENFORCEMENT

18 (a) ~~If~~ When the Secretary or a dispensary registered under 18 V.S.A.  
19 ~~chapter 86 tests~~ notified of a hemp crop, hemp product, or hemp-infused  
20 product and the hemp that has a delta-9 tetrahydrocannabinol concentration of  
21 ~~more than 0.3 percent on a dry weight basis~~ exceeding the applicable federally

1 defined tetrahydrocannabinol concentration level of hemp, the person  
2 registered with the Secretary as growing or processing the hemp ~~crop~~ shall:

3 ~~(1) enter into an agreement with a dispensary registered under 18 V.S.A.~~  
4 ~~chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the~~  
5 ~~hemp crop, return of the hemp crop to the person registered with the Secretary,~~  
6 ~~and retention of the separated delta-9 tetrahydrocannabinol by the dispensary;~~

7 ~~(2) sell the hemp crop to a dispensary registered under 18 V.S.A.~~  
8 ~~chapter 86; or~~

9 ~~(3) arrange for the Secretary to destroy~~ disposal, remediation, or order  
10 the destruction of the hemp crop, hemp product, or hemp-infused product in a  
11 manner consistent with applicable State and federal law.

12 (b) To enforce the provisions of this chapter, the Secretary, upon presenting  
13 appropriate credentials, may conduct one or more of the following:

14 (1) Enter upon any premises where hemp is grown or processed and  
15 inspect premises, machinery, equipment and facilities, any crop during any  
16 growth phase, or any hemp product or hemp-infused product during processing  
17 or storage. Inspection under this section may include the taking of samples,  
18 inspection of records, and inspection of equipment or vehicles used in the  
19 growing, processing, or transport of hemp crops, hemp products, or hemp-  
20 infused products.

1           (2) Inspect any retail location offering hemp products or hemp-infused  
2 products. Inspection under this section may include the taking of samples of  
3 such products.

4           (3) Issue and enforce a written or printed “stop sale” order to the owner  
5 or custodian of any hemp crop, hemp product, or hemp-infused product subject  
6 to the requirements of this chapter or rules adopted under this chapter that the  
7 Secretary finds is in violation of any of the provisions of this chapter or rules  
8 adopted under this chapter. An order may prohibit further sale, processing, and  
9 movement of the hemp crop, hemp product, or hemp-infused product until the  
10 Secretary has approved and issued a release from the “stop sale” order.

11           (A) This order should include the reason for being issued, a  
12 description of the crops or products at issue, instructions to separate all crops  
13 or products subject to the order, and any recommended measures to remedy the  
14 basis or bases for the order.

15           (B) A person issued a “stop sale” order may appeal that order to the  
16 Secretary within 15 days after receipt. The person shall file any appeal by  
17 -serving a letter on the Secretary, which shall state all grounds for the appeal  
18 and identify the crops or products affected by the appeal.

19           ~~(c) A crop or product confirmed by the Secretary to meet the definition of~~  
20 ~~hemp under State or federal law may be sold or transferred in interstate~~  
21 ~~commerce to the extent authorized by federal law.~~

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\* \* \*

\* \* \* Invasive Exotic Plant Advisory Committee\_ \* \* \*

Sec. 9. 6 V.S.A. chapter 84 is amended to read:

CHAPTER 34. PEST SURVEY, DETECTION, AND MANAGEMENT

§ 1030. DEFINITIONS

Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

\* \* \*

(15) “Invasive Exotic Plant Advisory Committee” means the Advisory Committee established in section 1032 of this chapter.

\* \* \*

§ 1031. FUNCTIONS OF SECRETARY OF AGRICULTURE, FOOD AND MARKETS AND COMMISSIONER OF FORESTS, PARKS AND RECREATION COOPERATION.

\* \* \*

§ 1032. POWERS OF THE SECRETARY

(a) The Secretary in furtherance of the purposes of this chapter may:

\* \* \*

(b) The Secretary shall appoint members to the Invasive Exotic Plant Advisory Committee. Members of the Committee that are not from a

1 designated State agency shall serve for three-year terms. This Committee shall  
2 consist of the following members:

3 (1) the Secretary of the Agency of Natural Resources or designee;

4 (2) the Secretary of the Agency of Transportation or designee;

5 (3) the Secretary of the Agency of Agriculture, Food and  
6 Markets or designee;

7 (4) a member from a nongovernmental organization that actively works  
8 on ecosystem or habitat restoration;

9 (5) a member who is a nursery or landscape industry professional;

10 (6) a member who is a utility vegetation manager or utility arborist; and

11 (7) a member of the public.

12 § 1032a. INVASIVE EXOTIC PLANT ADVISORY COMMITTEE

13 (a) In order to advise the Secretary on noxious weeds, there is hereby  
14 established the Invasive Exotic Plant Advisory Committee. This Committee  
15 shall:

16 (1) Advise the Secretary annually on updates to the Agency’s Noxious  
17 Weeds Rule.

18 (2) Annually review the Class A and Class B prohibited weed lists and  
19 make recommendations for supplementing, deleting, or amending the listed  
20 species.





1 (c)(1) Medium farm general permit. The owner or operator of a medium  
2 farm seeking coverage under a general permit adopted pursuant to this section  
3 shall certify to the Secretary within a period specified in the permit, and in a  
4 manner specified by the Secretary, that the medium farm does comply with  
5 permit requirements regarding an adequately sized and designed manure  
6 management system to accommodate the wastes generated and a nutrient  
7 management plan to dispose of wastes in accordance with required agricultural  
8 practices adopted under this chapter and current U.S. Department of  
9 Agriculture nutrient management standards. Any certification or notice of  
10 intent to comply submitted under this subdivision shall be kept on file at the  
11 Agency of Agriculture, Food and Markets. The Secretary of Agriculture, Food  
12 and Markets, in consultation with the Secretary of Natural Resources, shall  
13 review any certification or notice of intent to comply submitted under this  
14 subdivision with regard to the water quality impacts of the medium farm for  
15 which the owner or operator is seeking coverage, and, for farms that have  
16 never been permitted under the prior permit term, within 18 months of  
17 receiving the certification or notice of intent to comply, shall verify whether  
18 the owner or operator of the medium farm has established that there will be no  
19 unpermitted discharge to waters of the State pursuant to the federal regulations  
20 for concentrated animal feeding operations. If upon review of a medium farm  
21 granted coverage under the general permit adopted pursuant to this subsection,

1 the Secretary of Agriculture, Food and Markets determines that the permit  
2 applicant may be discharging to waters of the State, the Secretary of  
3 Agriculture, Food and Markets and the Secretary of Natural Resources shall  
4 respond to the discharge in accordance with the memorandum of  
5 understanding regarding concentrated animal feeding operations under section  
6 4810 of this title.

7 Sec. 11. 6 V.S.A. § 4871 is amended to read:

8 § 4871. SMALL FARM CERTIFICATION

9 (a) Small farm definition. As used in this section, “small farm” means a  
10 parcel or parcels of land:

11 (1) on which 10 or more acres are used for farming;

12 (2) that house ~~no~~ not more than the number of animals specified under  
13 section 4857 of this title; and

14 (3)(A) that house at least the number of mature animals that the  
15 Secretary of Agriculture, Food and Markets designates by rule under the  
16 required agricultural practices; or

17 (B) that are used for the preparation, tilling, fertilization, planting,  
18 protection, irrigation, and harvesting of crops for sale.

19 (b) Required small farm certification. Beginning on July 1, 2017, a person  
20 who owns or operates a small farm, as designated by the Secretary consistent  
21 with subdivision 4810a(a)(1) of this title, shall, on a form provided by the

1 Secretary, certify compliance with the required agricultural practices. The  
2 Secretary of Agriculture, Food and Markets shall establish the requirements  
3 and manner of certification of compliance with the required agricultural  
4 practices, provided that the Secretary shall require an owner or operator of a  
5 farm to submit an annual certification of compliance with the required  
6 agricultural practices.

7 \* \* \*

8 ~~(f) Notice of change of ownership or change of lease. A person who owns~~  
9 ~~or leases a small farm shall notify the Secretary of a change of ownership or~~  
10 ~~change of lessee of a small farm within 30 days of the change. The~~  
11 ~~notification shall include the certification of small farm compliance required~~  
12 ~~under subsection (a) of this section. [Repealed.]~~

13 \* \* \*

14 Sec. 12. 10 V.S.A. § 6001(42) is amended to read:

15 (42) “Small farm” has the same meaning as in 6 V.S.A. § 4871  
16 and also means a small farm that is subject to the Required Agricultural  
17 Practices Rule (RAPs) and is not required to certify as a small farm under  
18 Section 4 of the RAPs, is not required to operate as a Medium Farm Operation  
19 under 6 V.S.A. § 4858, and is not required to operate as a Large Farm  
20 Operation under 6 V.S.A. § 4851.

21

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

2       Sec. 13. EFFECTIVE DATE

3       This act shall take effect on July 1, 2022.