

1 S.115

2 Introduced by Committee on Agriculture

3 Date: March 1, 2023

4 Subject: Agriculture; food safety; livestock quarantine; eggs; water quality

5 Statement of purpose of bill as introduced: This bill proposes to make
6 multiple miscellaneous amendments to agricultural statutes. The bill would
7 clarify that the Secretary of Agriculture, Food and Markets has the authority to
8 quarantine an animal when the animal is suspected of having been exposed to
9 biological or chemical agents that may adulterate the animal's milk, processed
10 dairy product, or other product. The bill would modernize the requirements
11 for the sale and marketing of eggs in the State. The bill would increase the
12 Agency of Agriculture, Food and Markets' default, maximum penalty amounts
13 in enforcement actions. In addition, the bill clarifies the authority of
14 municipalities to adopt stormwater management controls applicable to farms.

15 An act relating to miscellaneous agricultural subjects

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

17 * * * Livestock; Quarantine * * *

18 Sec. 1. 6 V.S.A. § 1157(a) is amended to read:

1 (a) The Secretary may order any domestic animals, the premises upon
2 which they are or have been located, any animal products derived from those
3 domestic animals, and any equipment, materials, or products to which they
4 have been exposed to be placed in quarantine if the animals:

5 (1) are affected with a contagious disease;

6 (2) have been exposed to a contagious disease;

7 (3) may be infected with or have been exposed to a contagious disease;

8 (4) are suspected of having biological or chemical residues, including
9 antibiotics, in their tissues that would cause the carcasses of the animals, if
10 slaughtered, to be adulterated within the meaning of chapter 204 of this title;

11 ~~or~~

12 (5) are suspected of having been exposed to biological or chemical
13 agents that may cause the animal's milk, processed dairy product, or other
14 product to be adulterated or otherwise unsafe for human consumption or use;

15 or

16 (6) are owned or controlled by a person who has violated any provision
17 of this part, and the Secretary finds that a quarantine is necessary to protect the
18 public welfare.

19 * * * Eggs * * *

20 Sec. 2. 6 V.S.A. § 352 is amended to read:

21 § 352. PROHIBITION

1 A person shall not:

2 (1) sell, expose, offer for sale, or advertise for sale or exchange in
3 Vermont as “fresh,” “strictly fresh,” “hennery,” “new laid,” “native,”
4 “today’s,” “nearby,” “selected,” “guaranteed,” “new arrivals,” “A 1 candled,”
5 or other words or descriptions of similar import any eggs which are not grade
6 A or better;

7 (2) advertise or label eggs in a false or misleading manner;

8 (3) sell, offer for sale, deliver, or donate eggs that do not satisfy the
9 requirements of this chapter or the rules adopted pursuant to it; or

10 (4) sell, offer for sale, deliver, or donate eggs that are adulterated within
11 the meaning of 18 V.S.A. § 4059 or the rules adopted under 18 V.S.A. chapter
12 82.

13 Sec. 3. 6 V.S.A. § 355 is amended to read:

14 § 355. ENFORCEMENT; RULES; INSPECTORS

15 The Secretary of Agriculture, Food and Markets, ~~through the Division of~~
16 ~~Business Development~~, shall enforce the provisions of this chapter and shall
17 establish such rules and employ such inspectors as are deemed necessary and
18 advisable. Such duly appointed inspectors shall have free access at all
19 reasonable hours to any building or other place where it is reasonable to
20 believe eggs are being sold, offered, or exposed for sale.

21 Sec. 4. 6 V.S.A. § 356 is amended to read:

1 § 356. NOTICE OF VIOLATION

2 ~~When the Secretary becomes cognizant of a violation of a provision of this~~
3 ~~chapter, he or she may cause notice of such fact to be given to the person~~
4 ~~concerned and to the State's Attorney of the county in which the offense was~~
5 ~~committed, or in which the violator resides or has a place of business~~ When
6 the Secretary of Agriculture, Food and Markets determines that a person is
7 violating this chapter or any rule adopted thereunder, the Secretary may issue a
8 written warning that shall be served in person or by certified mail, return
9 receipt requested. A warning issued under this section shall include:

10 (1) a description of the alleged violation;

11 (2) identification of this section;

12 (3) identification of the applicable violation; and

13 (4) the required corrective action that the person shall take to correct the
14 violation.

15 Sec. 5. 6 V.S.A. § 357 is amended to read:

16 § 357. PENALTY

17 (a) ~~A person who violates any provision of this chapter shall be fined not~~
18 ~~more than \$100.00 nor less than \$25.00 for the first offense and not more than~~
19 ~~\$500.00 nor less than \$50.00 for each subsequent offense. A person who~~
20 ~~obstructs or hinders the Secretary or any of his or her assistants in the~~
21 ~~performance of his or her duties under this chapter shall be fined not more than~~

1 ~~\$500.00 nor less than \$50.00~~ Notwithstanding the requirements of section 356
2 of this title, the Secretary at any time may pursue one or more of the
3 following:

4 (1) issue an appropriate order including a cease and desist or stop sale
5 order to a person the Secretary believes to be in violation of this chapter or an
6 underlying rule;

7 (2) order mandatory corrective actions;

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

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

11 (b) When the Secretary of Agriculture, Food and Markets issues an order
12 to cease and desist, stop sale, or take other action, or a required corrective
13 action, the Secretary shall provide the person subject to the order or corrective
14 action a statement that the order or corrective action is effective upon receipt
15 and the person has 15 days to request a hearing.

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

1 (d) If a person who receives a written order to cease and desist, stop sale,
2 or take other action, or a written required corrective action, does not request a
3 hearing in writing within 15 days after receipt of the written order or required
4 corrective action, the person waives the right to a hearing. Upon receipt of a
5 written request for a hearing, the Secretary shall promptly set a date and time
6 for a hearing. A request for a hearing on an order issued under this section
7 shall not stay the order.

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

11 * * * Agency Enforcement Authority * * *

12 Sec. 6. 6 V.S.A. § 15 is amended to read:

13 § 15. ADMINISTRATIVE PENALTIES

14 (a) In addition to other penalties provided by law, the Secretary may assess
15 administrative penalties, not to exceed ~~\$1,000.00~~ \$5,000.00, for each violation
16 of this title and Titles 9 and 20, unless a higher administrative penalty amount
17 is otherwise provided for in Title 9 or Title 20.

18 (b) In determining the amount of the penalty to be assessed under this
19 section, the Secretary may give consideration to one or more of the following:

20 (1) the degree of actual and potential impact on public health, safety,
21 and welfare resulting from the violation;

1 (2) the presence of mitigating or aggravating circumstances;

2 (3) whether the violator has been warned or found in violation of the
3 same provisions of law in the past;

4 (4) the economic benefit gained by the violation;

5 (5) the deterrent effect of the penalty;

6 (6) the financial condition of the violator.

7 (c) Each violation may be a separate and distinct offense and, in the case of
8 a continuing violation, each day's continuance may be deemed to be a separate
9 and distinct offense. In no event shall the maximum amount of the penalty
10 assessed under this section exceed ~~\$25,000.00~~ \$50,000.00.

11 (d) In addition to the administrative penalties authorized by this section,
12 the Secretary may recover the costs of investigation, which shall be credited to
13 a special fund and shall be available to the Agency to offset these costs.

14 (e) Any party aggrieved by a final decision of the Secretary may appeal de
15 novo to the Superior Court within 30 days of the final decision of the
16 Secretary. The Secretary may enforce a final administrative penalty by filing a
17 civil collection action in any District or Superior Court.

18 * * * Water Quality * * *

19 Sec. 7. 6 V.S.A. § 4828(a) is amended to read:

20 (a) It is the purpose of this section to provide assistance to purchase or use
21 innovative equipment that will aid in the reduction of surface runoff of

1 agricultural wastes to State waters, improve water quality of State waters,
2 reduce odors from manure application, separate phosphorus from manure,
3 decrease mitigate greenhouse gas emissions gases, and reduce costs to farmers.

4 ~~Sec. 8. 24 V.S.A. § 4414(9) is amended to read:~~

5 ~~(9) Stormwater management and control. Any municipality may adopt~~
6 ~~bylaws to implement stormwater management and control consistent with the~~
7 ~~program developed by the Secretary of Natural Resources pursuant to 10~~
8 ~~V.S.A. § 1264, provided the municipality does not exceed the Secretary's~~
9 ~~authority, maintains the exemptions in 10 V.S.A. § 1264(d)(1), and does not~~
10 ~~charge an operating fee related to exempt practices.~~

11 Sec. 9. IMPLEMENTATION PROSPECTIVE APPLICATION

12 Sec. 8 (exemption from municipal stormwater fees) shall apply
13 prospectively and shall not require a municipality to refund stormwater
14 operating fees assessed prior to the effective date of this act on properties or
15 activities that are exempt from such fees under 24 V.S.A. § 4414(9) as
16 amended by this act.

~~17 Sec. 10. REPORT ON MUNICIPAL STORMWATER REGULATION OF~~
~~18 FARMS~~

~~19 On or before December 1, 2023, the Commissioner of Environmental~~
~~20 Conservation, after consultation with the Secretary of Agriculture, Food and~~
~~21 Markets and with representatives of municipal stormwater utilities or~~
~~22 regulators, shall submit to the Senate Committees on Agriculture and on~~
~~23 Natural Resources and Energy and the House Committees on Agriculture,~~
~~24 Food Resiliency, and Forestry and on Environment and Energy a report~~
~~25 regarding the regulation by municipal stormwater entities of property subject~~
~~26 to the Required Agricultural Practices. The report shall include:~~

~~(1) a recommendation regarding whether property subject to the Required Agricultural Practices should be subject to regulation by a municipal stormwater utility or other municipal stormwater entity;~~

~~(2) a recommendation regarding whether property subject to the Required Agricultural Practices should be required to pay an assessment or fee imposed by a municipal stormwater utility or other municipal stormwater entity;~~

~~(3) a recommendation whether property subject to the Required Agricultural Practices should receive an offset of any stormwater assessment or fee charged by a municipal stormwater utility or other municipal stormwater entity for the stormwater management practices that the property is required to conduct under State law;~~

~~(4) if the report recommends that property subject to the required agricultural practice should be subject to a stormwater fee, rate, or assessment, a recommendation on whether owners of property subject to the Required Agricultural Practices should be required to pay stormwater fees, rates, or assessments for the period of suspension under Sec. 2 of this act; and~~

~~(5) any other recommendation that the Commissioner determines is relevant to municipal stormwater regulation of properties subject to the Required Agricultural Practices, including any proposed legislative changes.~~

~~Sec. 9. SUSPENSION OF MUNICIPAL STORMWATER FEES ON
PROPERTY SUBJECT TO THE REQUIRED AGRICULTURAL
PRACTICES~~

~~Between the effective date of this act and July 1, 2024, a municipal stormwater utility or other municipal entity that regulates stormwater runoff shall not assess a fee, rate, or other assessment under 24 V.S.A. chapters 27, 101, or 105 or any other authority on stormwater from or impervious surface on a property subject to the Required Agricultural Practices.~~

~~Sec. 8. 24 V.S.A. § 4414(9) is amended to read:~~

~~(9) Stormwater management and control. Any municipality may adopt bylaws to implement stormwater management and control consistent with the program developed by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1264. Municipalities shall not charge an impervious surface fee or other stormwater fee under this subdivision or under other provisions of this title on property regulated under the Required Agricultural Practices for discharges of agricultural waste or agricultural nonpoint source pollution.~~

Sec. 9. IMPLEMENTATION PROSPECTIVE APPLICATION

Sec. 8 (municipal stormwater fees on agricultural nonpoint source pollution) of this act shall apply prospectively and shall not require a municipality to refund stormwater fees assessed prior to the effective date of this act on properties or activities that are exempt from such fees under 24 V.S.A. § 4414(9) as amended by this act.

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* * * Effective Date * * *

2

Sec. 10. EFFECTIVE DATE

3

This act shall take effect on July 1, 2023.