

1 S.115

2 An act relating to miscellaneous agricultural subjects

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

4 * * * Livestock; Quarantine * * *

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

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

10 (1) are affected with a contagious disease;

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

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

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

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

19 or

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

1 reasonable hours to any building or other place where it is reasonable to
2 believe eggs are being sold, offered, or exposed for sale.

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

4 § 356. NOTICE OF VIOLATION

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

13 (1) a description of the alleged violation;

14 (2) identification of this section;

15 (3) identification of the applicable violation; and

16 (4) the required corrective action that the person shall take to correct the
17 violation.

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

19 § 357. PENALTY

20 ~~(a) A person who violates any provision of this chapter shall be fined not~~
21 ~~more than \$100.00 nor less than \$25.00 for the first offense and not more than~~

1 ~~\$500.00 nor less than \$50.00 for each subsequent offense. A person who~~
2 ~~obstructs or hinders the Secretary or any of his or her assistants in the~~
3 ~~performance of his or her duties under this chapter shall be fined not more than~~
4 ~~\$500.00 nor less than \$50.00~~ Notwithstanding the requirements of section 356
5 of this title, the Secretary at any time may pursue one or more of the following:

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

9 (2) order mandatory corrective actions;

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

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

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

18 (c) If the Secretary of Agriculture, Food and Markets issues a verbal order
19 under this section, the Secretary shall issue written notice to the person subject
20 to the order within five business days following the issuance of the verbal

1 order. The written notice shall include a statement that the person has 15 days
2 from the date the written notice was received to request a hearing.

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

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

13 * * * Agency Enforcement Authority * * *

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

15 § 15. ADMINISTRATIVE PENALTIES

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

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

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

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

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

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

7 (5) the deterrent effect of the penalty;

8 (6) the financial condition of the violator.

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

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

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

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* * * Effective Date * * *

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Sec. 10. EFFECTIVE DATE

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This act shall take effect on July 1, 2023.