

1 S.115

2 Introduced by Committee on Agriculture

3 Date:

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

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

19 (a) The Secretary may order any domestic animals, the premises upon  
20 which they are or have been located, any animal products derived from those

1 domestic animals, and any equipment, materials, or products to which they  
2 have been exposed to be placed in quarantine if the animals:  
3 (1) are affected with a contagious disease;  
4 (2) have been exposed to a contagious disease;  
5 (3) may be infected with or have been exposed to a contagious disease;  
6 (4) are suspected of having biological or chemical residues, including  
7 antibiotics, in their tissues that would cause the carcasses of the animals, if  
8 slaughtered, to be adulterated within the meaning of chapter 204 of this title; ~~or~~  
9 (5) are suspected of having been exposed to biological or chemical  
10 agents that may cause the animal's milk, processed dairy product, or other  
11 product to be adulterated or otherwise unsafe for human consumption or use;  
12 or  
13 (6) are owned or controlled by a person who has violated any provision  
14 of this part, and the Secretary finds that a quarantine is necessary to protect the  
15 public welfare.

16 \* \* \* Eggs \* \* \*

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

18 § 352. PROHIBITION

19 A person shall not:

20 (1) sell, expose, offer for sale, or advertise for sale or exchange in  
21 Vermont as “fresh,” “strictly fresh,” “hennery,” “new laid,” “native,”

1 “today’s,” “nearby,” “selected,” “guaranteed,” “new arrivals,” “A 1 candled,”  
2 or other words or descriptions of similar import any eggs which are not grade  
3 A or better;

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

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

7 (4) sell, offer for sale, deliver, or donate eggs that are adulterated within  
8 the meaning of 18 V.S.A. § 4059 or the rules adopted under 18 V.S.A. chapter  
9 82.

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

11 § 355. ENFORCEMENT; RULES; INSPECTORS

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

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

19 § 356. NOTICE OF VIOLATION

20 ~~When the Secretary becomes cognizant of a violation of a provision of this~~  
21 ~~chapter, he or she may cause notice of such fact to be given to the person~~

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

7 (1) a description of the alleged violation;

8 (2) identification of this section;

9 (3) identification of the applicable violation; and

10 (4) the required corrective action that the person shall take to correct the  
11 violation.

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

13 § 357. PENALTY

14 ~~(a) A person who violates any provision of this chapter shall be fined not~~  
15 ~~more than \$100.00 nor less than \$25.00 for the first offense and not more than~~  
16 ~~\$500.00 nor less than \$50.00 for each subsequent offense. A person who~~  
17 ~~obstructs or hinders the Secretary or any of his or her assistants in the~~  
18 ~~performance of his or her duties under this chapter shall be fined not more than~~  
19 ~~\$500.00 nor less than \$50.00~~ Notwithstanding the requirements of section 356  
20 of this title, the Secretary at any time may pursue one or more of the following:

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

4           (2) order mandatory corrective actions;

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

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

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

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

18          (d) If a person who receives a written order to cease and desist, stop sale, or  
19          take other action, or a written required corrective action, does not request a  
20          hearing in writing within 15 days after receipt of the written order or required  
21          corrective action, the person waives the right to a hearing. Upon receipt of a

1 written request for a hearing, the Secretary shall promptly set a date and time  
2 for a hearing. A request for a hearing on an order issued under this section  
3 shall not stay the order.

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

7 \* \* \* Agency Enforcement Authority \* \* \*

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

9 § 15. ADMINISTRATIVE PENALTIES

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

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

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

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

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

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

1 (5) the deterrent effect of the penalty;

2 (6) the financial condition of the violator.

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

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

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

14 \* \* \* Water Quality \* \* \*

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

16 (a) It is the purpose of this section to provide assistance to purchase or use  
17 innovative equipment that will aid in the reduction of surface runoff of  
18 agricultural wastes to State waters, improve water quality of State waters,  
19 reduce odors from manure application, separate phosphorus from manure,  
20 ~~decrease~~ mitigate greenhouse ~~gas emissions~~ gases, and reduce costs to farmers.

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

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

8 Sec. 9. IMPLEMENTATION PROSPECTIVE APPLICATION

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

14 \* \* \* Effective Date \* \* \*

15 Sec. 10. EFFECTIVE DATE

16 This act shall take effect on July 1, 2023.