

SENATE BILL 142

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By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Agriculture)**

Introduced and read first time: January 18, 2012

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Secretary of Agriculture – Farm Food Safety**

3 FOR the purpose of authorizing the Secretary of Agriculture to establish a farm
4 quarantine for a certain purpose on a farm that is infected or infested with a
5 pathogen; authorizing the Secretary to examine certain practices in accordance
6 with certain standards; authorizing the Secretary to designate a certain person
7 to conduct an inspection of certain practices; authorizing the Secretary to accept
8 certain assistance from certain federal agencies; requiring the Secretary to deny
9 access to certain information subject to a certain exception; authorizing the
10 Secretary to revoke or suspend a certain certificate under certain
11 circumstances; making a clarifying change; altering a certain definition; and
12 generally relating to the Secretary's authority to establish a farm quarantine
13 and examine, inspect, and certify farm products.

14 BY repealing and reenacting, with amendments,
15 Article – Agriculture
16 Section 2–103.1, 10–601, 10–602, and 10–603
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2011 Supplement)

19 BY adding to
20 Article – Agriculture
21 Section 10–607 and 10–608
22 Annotated Code of Maryland
23 (2007 Replacement Volume and 2011 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Agriculture**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2-103.1.

2 (a) The Secretary may establish a farm quarantine and issue appropriate
3 orders necessary to control or restrict the use of farmland, crops, livestock, poultry, or
4 a farm product existing on a farm that:

5 (1) Has been exposed to or contaminated by a radiological or chemical
6 toxic material or agent; or

7 (2) Is infected or infested with a disease [or], pest, **OR PATHOGEN**.

8 (b) Before establishing a quarantine for a farm, the Secretary shall consult
9 with the Governor, the Secretary of Health and Mental Hygiene, and the Secretary of
10 the Environment on issues of human health and the environment.

11 (c) Before a quarantine or order issued under this section takes effect, the
12 Secretary shall give reasonable notice of the quarantine or order:

13 (1) In a newspaper of general circulation in the quarantine area;

14 (2) Through television or radio serving the quarantine area;

15 (3) By circulating notices or posting signs at conspicuous places in the
16 quarantine area; or

17 (4) By notifying each landowner, tenant, or animal owner of the
18 quarantine or order.

19 (d) (1) The Secretary shall establish procedures to allow a landowner,
20 tenant, or animal owner to request the amendment, rescission, or termination of a
21 quarantine or order issued under this section.

22 (2) A request to amend, rescind, or terminate a quarantine or order
23 issued under this section may not suspend a quarantine or order of the Secretary.

24 (e) For the purpose of controlling or restricting the use of farmland, crops,
25 livestock, poultry, or farm products as provided by this section, the Secretary may:

26 (1) Quarantine a farm area of the State known or reasonably believed
27 to contain a farm product, crops, livestock, poultry, or farmland in an infected,
28 infested, or contaminated condition;

29 (2) Regulate the movement, distribution, sale, or transportation of a
30 crop, livestock, poultry, or farm product when it is reasonably likely to transfer
31 infestation, infection, or contamination;

1 (3) Regulate or prohibit the on-farm grazing of livestock and poultry,
2 slaughter and processing of livestock and poultry, [processing] **PACKING** of eggs, and
3 harvesting or planting of a crop in a quarantined area when the Secretary determines
4 that the action may prevent, limit, control, or eradicate any threat;

5 (4) Direct as part of a quarantine order for a quarantined farm area,
6 treatments or decontamination;

7 (5) Enter private land that is part of a farm operation to inspect,
8 sample, or test soil or crops, livestock, poultry, or a farm product on a farm; and

9 (6) Direct the treatment, stop-sale, detention, condemnation, seizure,
10 or destruction of any crop, livestock, poultry, or farm product when the Secretary
11 knows or reasonably believes that the action is necessary to control, retard, or
12 eradicate a threat on a farm.

13 (f) A person may not resist the application of a quarantine or order of the
14 Secretary.

15 (g) A person may not conceal the fact that a farm has been exposed to or
16 contaminated by any radiological or chemical agent or toxic material or has been
17 infected or infested with any disease [or], pest, **OR PATHOGEN**.

18 (h) Any farm quarantine or order by the Secretary under this section may
19 provide for:

20 (1) The imposition of a civil penalty not exceeding \$10,000 for each
21 violation; and

22 (2) The method and conditions of collecting the civil penalty.

23 (i) (1) The Secretary may bring an action for an injunction against a
24 person violating the provisions of this section, or violating a valid order or farm
25 quarantine issued by the Secretary.

26 (2) In an action for an injunction brought under this section, a finding
27 of the Secretary after a hearing shall be prima facie evidence of each fact found.

28 (3) On a showing by the Secretary that a person is violating or is about
29 to violate the provisions of this section or is violating or is about to violate any valid
30 order or quarantine issued by the Secretary, an injunction shall be granted without
31 the necessity of showing a lack of adequate remedy at law.

32 (4) In circumstances of an emergency creating conditions of imminent
33 danger to agriculture, public health and safety, or the environment, the Secretary may
34 institute an action for an immediate injunction to halt any activity causing the danger.

1 (5) An injunction instituted under this section shall be issued without
2 bond.

3 (j) The Secretary may order any sheriff, deputy sheriff, or other law
4 enforcement officer of the State or of any county to provide information or assist in the
5 execution or enforcement of any farm quarantine or order of the Secretary.

6 (k) Nothing in this section shall be construed to limit any authority of the
7 Secretary of the Environment under § 8–105 of the Environment Article.

8 10–601.

9 (a) In this subtitle the following words have the meanings indicated.

10 (b) “Certificate” means a certificate of the quality, condition, grade, **FOOD**
11 **SAFETY STANDARD**, or other classification of any farm product and includes a
12 certificate of the Secretary, [or] of the United States Department of Agriculture, **OR**
13 **OF THE UNITED STATES FOOD AND DRUG ADMINISTRATION**.

14 (c) “Farm product” means any agricultural, horticultural, vegetable, or fruit
15 product of the soil, including livestock, meats, marine food products, poultry, eggs,
16 dairy products, wool, hides, feathers, nuts, honey, and every product of farm, forest,
17 orchard, garden or water, but does not include canned, frozen, dried, or pickled
18 products.

19 10–602.

20 When requested by any person financially interested in any farm product, the
21 Secretary may:

22 (1) Examine the product **AND PRACTICES USED IN ITS PRODUCTION**
23 to determine its quality, condition, grade, or other classification, either on the basis of
24 the standards established by the Secretary, or the standards announced from time to
25 time by the United States Department of Agriculture **OR THE UNITED STATES**
26 **FOOD AND DRUG ADMINISTRATION**;

27 (2) Provide the person with an official certificate; and

28 (3) Adopt rules and regulations concerning the inspection and
29 certification of any farm product, including the payment of reasonable fees, as
30 necessary to effectuate the purposes of this subtitle.

31 10–603.

32 **(A)** The Secretary shall cooperate with the United States government and
33 any federal agency and may designate any competent person who has been licensed,

1 COMMISSIONED, OR CREDENTIALLED for work by the United States Department of
2 Agriculture OR THE UNITED STATES FOOD AND DRUG ADMINISTRATION, to
3 INSPECT, examine, classify, and certify any farm product OR FARM PRODUCTION
4 PRACTICES in accordance with the rules and regulations it adopts and at the places
5 the volume of business warrants.

6 (B) THE SECRETARY MAY ACCEPT TECHNICAL, FINANCIAL, AND
7 ADVISORY ASSISTANCE FROM ANY COOPERATING FEDERAL AGENCY.

8 10-607.

9 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
10 SECRETARY SHALL DENY ACCESS TO ANY BUSINESS-RELATED INFORMATION
11 CONCERNING ANY PERSON WHO APPLIES FOR A CERTIFICATE OR IS CERTIFIED
12 UNDER THIS SUBTITLE.

13 (B) IF THE SECRETARY DETERMINES THAT DISCLOSURE IS NECESSARY
14 TO PROTECT THE PUBLIC HEALTH, THE SECRETARY MAY DISCLOSE ANY
15 BUSINESS-RELATED INFORMATION CONCERNING ANY PERSON WHO APPLIES
16 FOR A CERTIFICATE OR IS CERTIFIED UNDER THIS SUBTITLE.

17 10-608.

18 AFTER AN OPPORTUNITY FOR A HEARING, THE SECRETARY MAY REVOKE
19 OR SUSPEND A CERTIFICATE ISSUED UNDER THIS SUBTITLE TO ANY PERSON
20 FOR FAILING TO COMPLY WITH ANY REGULATION ADOPTED UNDER THIS
21 SUBTITLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2012.