

SENATE BILL 532

I4, M4

5lr1321
CF 5lr2233

By: **Senators Madaleno, Lee, Manno, Montgomery, and Pinsky**

Introduced and read first time: February 6, 2015

Assigned to: Finance and Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Farmers' Rights Act

FOR the purpose of establishing that certain contracts for the production of livestock impose a certain obligation of good faith on all parties; requiring certain production contracts to include a certain disclosure statement and cover sheet containing certain information; requiring certain production contracts to comply with certain standards; requiring certain production contracts to be submitted to the Attorney General for review to determine compliance with this Act; authorizing the Attorney General to decline to review a production contract for certain reasons; requiring the Attorney General to take certain actions after reviewing a production contract; requiring the Attorney General to consider certain factors in determining whether a production contract meets certain requirements; establishing that certain actions of the Attorney General under this Act are not subject to judicial review; establishing that a production contract is deemed to comply with certain requirements under certain circumstances; establishing that certification of a production contract by the Attorney General does not constitute approval of the contract's legality or legal effect; authorizing a certain producer to cancel a production contract within a certain period of time; providing that certain provisions in a production contract are void and unenforceable; establishing that a contract producer has a lien on certain livestock under certain circumstances; providing for enforcement of the lien; establishing procedures for termination of, cancellation of, or failure to renew a production contract; establishing that certain contract producers have certain rights; prohibiting certain contractors from engaging in or allowing their employees or agents to engage in certain practices; requiring a production contract to provide for resolution of disputes by mediation; establishing certain requirements for mediation; providing that a certain contractor that violates certain provisions of this Act is subject to a certain civil penalty; providing that a certain contractor that violates certain provisions of this Act is guilty of a misdemeanor and subject to a certain fine; requiring the Attorney General to enforce this Act; authorizing the Attorney General to take certain actions to enforce this Act; authorizing a certain contract producer to bring a certain civil action; requiring the court to award reasonable attorney's fees

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



and litigation expenses to a contract producer under certain circumstances; exempting a contract producer from certain requirements to obtain injunctive relief; authorizing a court to order certain equitable relief in an action under this Act; authorizing the Attorney General to adopt certain regulations; providing for the application of this Act; defining certain terms; and generally relating to certain contracts for the production of livestock.

BY adding to

Article – Commercial Law

Section 24–101 through 24–902 to be under the new title “Title 24. Livestock Production Contracts”

Annotated Code of Maryland

(2013 Replacement Volume and 2014 Supplement)

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

Article – Commercial Law

TITLE 24. LIVESTOCK PRODUCTION CONTRACTS.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

24–101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CAPITAL INVESTMENT” MEANS AN INVESTMENT IN:

(1) A STRUCTURE SUCH AS A BUILDING OR MANURE STORAGE SHED;

OR

(2) MACHINERY OR EQUIPMENT THAT IS ASSOCIATED WITH PRODUCING LIVESTOCK AND HAS A USEFUL LIFE EXCEEDING 1 YEAR.

(C) “CONTRACT OPERATION” MEANS A LIVESTOCK FACILITY OPERATED IN ACCORDANCE WITH A PRODUCTION CONTRACT.

(D) “CONTRACT PRODUCER” MEANS A PRODUCER THAT PRODUCES LIVESTOCK UNDER A PRODUCTION CONTRACT.

(E) “CONTRACTOR” MEANS A PERSON THAT OWNS LIVESTOCK THAT IS PRODUCED BY A CONTRACT PRODUCER AT THE CONTRACT PRODUCER’S CONTRACT OPERATION.

(F) “LEGIBLE TYPE” MEANS A TYPEFACE AT LEAST AS LARGE AS 10 POINT MODERN TYPE, 1 POINT LEADED.

(G) “LIVESTOCK” MEANS:

- (1) BEEF CATTLE;
- (2) DAIRY CATTLE;
- (3) POULTRY, INCLUDING TURKEYS AND CHICKENS;
- (4) SHEEP;
- (5) GOATS; OR
- (6) SWINE.

(H) “PRODUCER” MEANS A PERSON THAT HOLDS AN INTEREST IN A LIVESTOCK FACILITY.

(I) “PRODUCTION CONTRACT” MEANS A WRITTEN AGREEMENT THAT PROVIDES FOR THE PRODUCTION OF LIVESTOCK BY A CONTRACT PRODUCER.

24-102.

THIS TITLE APPLIES TO PRODUCTION CONTRACTS THAT RELATE TO THE PRODUCTION OF LIVESTOCK OWNED BY A CONTRACTOR AND PRODUCED BY A CONTRACT PRODUCER AT THE CONTRACT PRODUCER’S CONTRACT OPERATION.

24-103.

A PRODUCTION CONTRACT IMPOSES AN OBLIGATION OF GOOD FAITH, AS DEFINED IN § 1-201 OF THIS ARTICLE, ON ALL PARTIES WITH RESPECT TO THE PERFORMANCE AND ENFORCEMENT OF THE PRODUCTION CONTRACT.

SUBTITLE 2. CONTRACT REQUIREMENTS.

24-201.

(A) (1) A PRODUCTION CONTRACT SHALL INCLUDE A CLEAR WRITTEN DISCLOSURE STATEMENT SETTING FORTH THE NATURE OF THE MATERIAL RISKS FACED BY A PRODUCER IF THE PRODUCER ENTERS INTO THE CONTRACT.

(2) THE DISCLOSURE STATEMENT MAY BE IN THE FORM OF A WRITTEN STATEMENT OR CHECKLIST AND MAY BE DEVELOPED IN COOPERATION WITH PRODUCERS OR PRODUCER ORGANIZATIONS.

(3) THE DISCLOSURE STATEMENT SHALL INCLUDE THE FOLLOWING:

(I) THE DURATION OF THE CONTRACT;

(II) CONTRACT TERMINATION;

(III) RENEGOTIATION STANDARDS;

(IV) FACTORS TO BE USED IN DETERMINING PAYMENT;

(V) RESPONSIBILITY TO OBTAIN AND COMPLY WITH FEDERAL, STATE, AND LOCAL PERMITS;

(VI) A BRIEF DESCRIPTION OF HOW CONTRACT DISPUTES ARE RESOLVED; AND

(VII) ANY OTHER CONTRACT TERM THAT THE ATTORNEY GENERAL DETERMINES IS APPROPRIATE FOR DISCLOSURE.

(B) (1) A PRODUCTION CONTRACT ENTERED INTO, AMENDED, OR RENEWED ON OR AFTER OCTOBER 1, 2015, SHALL CONTAIN AS THE FIRST PAGE, OR THE FIRST PAGE OF TEXT IF IT IS PRECEDED BY A TITLE PAGE OR PAGES, A COVER SHEET AS PROVIDED IN THIS SUBSECTION.

(2) THE COVER SHEET SHALL CONTAIN:

(I) A BRIEF STATEMENT THAT THE DOCUMENT IS A LEGAL CONTRACT BETWEEN THE PARTIES;

(II) THE FOLLOWING STATEMENT:

“READ YOUR CONTRACT CAREFULLY. THIS COVER SHEET PROVIDES ONLY A BRIEF SUMMARY OF YOUR CONTRACT. THIS IS NOT THE CONTRACT AND ONLY THE TERMS OF THE ACTUAL CONTRACT ARE LEGALLY BINDING. THE CONTRACT ITSELF SETS FORTH, IN DETAIL, THE RIGHTS AND OBLIGATIONS OF BOTH YOU AND THE CONTRACTOR OR PROCESSOR. IT IS THEREFORE IMPORTANT THAT YOU READ YOUR CONTRACT CAREFULLY.”;

(III) THE WRITTEN DISCLOSURE STATEMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION;

(IV) A STATEMENT DESCRIBING, IN PLAIN LANGUAGE, THE PRODUCER'S RIGHT TO CANCEL THE CONTRACT UNDER § 24-203 OF THIS SUBTITLE; AND

(V) AN INDEX OF THE MAJOR PROVISIONS OF THE CONTRACT AND THE PAGES ON WHICH THEY ARE FOUND, INCLUDING:

- 1. THE NAMES OF ALL PARTIES TO THE CONTRACT;**
- 2. THE DEFINITION SECTIONS;**
- 3. PROVISIONS GOVERNING TERMINATION, CANCELLATION, RENEWAL, AND AMENDMENT OF THE CONTRACT BY EITHER PARTY;**
- 4. THE DUTIES OR OBLIGATIONS OF EACH PARTY; AND**
- 5. ANY PROVISIONS SUBJECT TO CHANGE IN THE CONTRACT.**

(C) (1) THIS SUBSECTION DOES NOT APPLY TO THE FOLLOWING TERMS IN A PRODUCTION CONTRACT:

(I) WORDS, PHRASES, PROVISIONS, OR FORMS OF AGREEMENT SPECIFICALLY REQUIRED, RECOMMENDED, OR ENDORSED BY A STATE OR FEDERAL STATUTE, RULE, OR REGULATION; AND

(II) TECHNICAL TERMS USED TO DESCRIBE THE SERVICES OR PROPERTY THAT ARE THE SUBJECT OF THE CONTRACT, IF THE TERMS ARE CUSTOMARILY USED BY PRODUCERS IN THE ORDINARY COURSE OF BUSINESS IN CONNECTION WITH THOSE SERVICES OR PROPERTY.

(2) ALL PARTS OF A PRODUCTION CONTRACT, INCLUDING ANY ATTACHMENTS, SHALL BE IN LEGIBLE TYPE, APPROPRIATELY DIVIDED INTO SECTIONS WITH CAPTIONS, AND WRITTEN IN CLEAR AND COHERENT LANGUAGE USING WORDS AND GRAMMAR THAT ARE UNDERSTANDABLE BY A PERSON OF AVERAGE INTELLIGENCE, EDUCATION, AND EXPERIENCE WITHIN THE INDUSTRY.

(3) A PRODUCTION CONTRACT SHALL LIMIT REFERENCES TO OTHER SECTIONS OR PROVISIONS AND, WHEN INCORPORATING A DOCUMENT, HAVE A COPY OF THE DOCUMENT ATTACHED.

24-202.

(A) A CONTRACTOR SHALL SUBMIT A PRODUCTION CONTRACT TO THE ATTORNEY GENERAL FOR REVIEW TO DETERMINE WHETHER THE CONTRACT COMPLIES WITH THIS TITLE.

(B) THE ATTORNEY GENERAL MAY DECLINE TO REVIEW A PRODUCTION CONTRACT BECAUSE:

(1) THE CONTRACT'S COMPLIANCE WITH THIS TITLE IS SUBJECT TO PENDING LITIGATION; OR

(2) THE CONTRACT IS NOT SUBJECT TO THIS TITLE.

(C) AFTER REVIEWING A PRODUCTION CONTRACT, THE ATTORNEY GENERAL SHALL:

(1) CERTIFY THAT THE CONTRACT COMPLIES WITH THIS TITLE; OR

(2) DECLINE TO CERTIFY THAT THE CONTRACT COMPLIES WITH THIS TITLE AND STATE THE REASONS WHY THE CONTRACT FAILS TO COMPLY.

(D) IN DETERMINING WHETHER A PRODUCTION CONTRACT MEETS THE REQUIREMENTS OF § 24-201(C) OF THIS SUBTITLE, THE ATTORNEY GENERAL SHALL CONSIDER, AT A MINIMUM, THE FOLLOWING FACTORS:

(1) THE SIMPLICITY OF THE SENTENCE STRUCTURE;

(2) THE EXTENT TO WHICH COMMONLY USED AND UNDERSTOOD WORDS ARE EMPLOYED;

(3) THE EXTENT TO WHICH ESOTERIC LEGAL TERMS ARE AVOIDED;

(4) THE EXTENT TO WHICH REFERENCES TO OTHER SECTIONS OR PROVISIONS OF THE CONTRACT ARE MINIMIZED;

(5) THE FLESCH READING EASE TEST;

(6) THE EXTENT TO WHICH CLEAR DEFINITIONS ARE USED IN THE TEXT OF THE CONTRACT; AND

(7) ANY OTHER FACTORS RELEVANT TO THE READABILITY OR UNDERSTANDABILITY OF THE CONTRACT.

(E) ACTIONS OF THE ATTORNEY GENERAL UNDER THIS SECTION ARE NOT SUBJECT TO JUDICIAL REVIEW.

(F) (1) A PRODUCTION CONTRACT CERTIFIED UNDER THIS SECTION IS DEEMED TO COMPLY WITH § 24–201 OF THIS SUBTITLE.

(2) IF THE ATTORNEY GENERAL FAILS TO RESPOND WITHIN 30 DAYS AFTER A PRODUCTION CONTRACT IS SUBMITTED FOR REVIEW UNDER THIS SECTION, THE CONTRACT IS DEEMED TO COMPLY WITH § 24–201 OF THIS SUBTITLE.

(G) CERTIFICATION OF A CONTRACT UNDER THIS SECTION DOES NOT CONSTITUTE AN APPROVAL OF THE CONTRACT’S LEGALITY OR LEGAL EFFECT.

24–203.

(A) A PRODUCER MAY CANCEL A PRODUCTION CONTRACT BY MAILING A WRITTEN CANCELLATION NOTICE TO THE CONTRACTOR WITHIN 3 BUSINESS DAYS AFTER THE CONTRACT IS EXECUTED, OR BEFORE A LATER CANCELLATION DEADLINE, IF A LATER DEADLINE IS SPECIFIED IN THE CONTRACT.

(B) A PRODUCER’S RIGHT TO CANCEL, THE METHOD BY WHICH THE PRODUCER MAY CANCEL, AND THE DEADLINE FOR CANCELING A PRODUCTION CONTRACT SHALL BE CLEARLY DISCLOSED IN EACH PRODUCTION CONTRACT.

SUBTITLE 3. VOID AND UNENFORCEABLE PROVISIONS.

24–301.

(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PROVISION IN A PRODUCTION CONTRACT THAT STATES THAT INFORMATION CONTAINED IN THE CONTRACT IS CONFIDENTIAL IS VOID AND UNENFORCEABLE BY THE CONTRACTOR.

(2) A CONFIDENTIALITY PROVISION IS VOID WHETHER IT IS:

(I) EXPRESS OR IMPLIED;

(II) ORAL OR WRITTEN;

(III) REQUIRED OR CONDITIONAL; OR

(IV) CONTAINED IN THE PRODUCTION CONTRACT, ANOTHER PRODUCTION CONTRACT, OR A RELATED DOCUMENT, POLICY, OR AGREEMENT.

(3) THIS SECTION DOES NOT AFFECT OTHER PROVISIONS OF A PRODUCTION CONTRACT OR A RELATED DOCUMENT, POLICY, OR AGREEMENT THAT CAN BE GIVEN EFFECT WITHOUT THE VOID PROVISION.

(4) THIS SECTION DOES NOT REQUIRE A PARTY TO A PRODUCTION CONTRACT TO DIVULGE INFORMATION IN THE CONTRACT TO ANOTHER PERSON.

(B) (1) A CONTRACTOR SHALL IDENTIFY ANY CONFIDENTIAL BUSINESS INFORMATION CONTAINED IN A PRODUCTION CONTRACT WHEN SUBMITTING THE CONTRACT TO THE ATTORNEY GENERAL FOR REVIEW.

(2) IF THE ATTORNEY GENERAL DETERMINES THAT A CLAIM OF CONFIDENTIAL BUSINESS INFORMATION IS WARRANTED, THAT INFORMATION MAY BE HELD CONFIDENTIAL NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION.

(3) CONFIDENTIALITY OF CONFIDENTIAL BUSINESS INFORMATION DOES NOT HAVE ANY EFFECT ON OTHER INFORMATION CONTAINED IN A PRODUCTION CONTRACT.

24-302.

ANY PROVISION OF A PRODUCTION CONTRACT THAT WAIVES A RIGHT OF A CONTRACT PRODUCER OR AN OBLIGATION OF A CONTRACTOR ESTABLISHED BY THIS TITLE IS VOID AND UNENFORCEABLE.

24-303.

ANY CONDITION, STIPULATION, OR PROVISION OF A PRODUCTION CONTRACT THAT REQUIRES THE APPLICATION OF THE LAW OF ANOTHER STATE INSTEAD OF THIS TITLE IS VOID AND UNENFORCEABLE.

SUBTITLE 4. PRODUCTION CONTRACT LIEN.

24-401.

(A) A CONTRACT PRODUCER SHALL HAVE A LIEN ON THE CONTRACTOR'S LIVESTOCK FOR THE AMOUNT OF ANY MONEY OWED TO THE CONTRACT PRODUCER UNDER THE PRODUCTION CONTRACT, INCLUDING MONEY OWED BY THE CONTRACTOR TO THE CONTRACT PRODUCER FOR THE PRODUCTION OF LIVESTOCK AND FOR CAPITAL INVESTMENTS.

(B) IF THE MONEY THAT GIVES RISE TO THE LIEN IS DUE AND UNPAID FOR 30 DAYS AND THE CONTRACT PRODUCER IS IN POSSESSION OF THE LIVESTOCK, THE

CONTRACT PRODUCER MAY SELL THE LIVESTOCK TO WHICH THE LIEN ATTACHES AT PUBLIC SALE.

(C) (1) THE CONTRACT PRODUCER SHALL PUBLISH NOTICE OF THE SALE ONCE A WEEK FOR 2 SUCCESSIVE WEEKS IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION IN THE COUNTY WHERE THE LIVESTOCK IS LOCATED.

(2) (I) THE CONTRACT PRODUCER SHALL SEND NOTICE BY REGISTERED OR CERTIFIED MAIL AT LEAST 30 DAYS BEFORE THE SALE TO THE CONTRACTOR AT THE CONTRACTOR'S LAST KNOWN ADDRESS.

(II) IF THE CONTRACTOR'S ADDRESS IS UNKNOWN, THE NOTICE MAY BE GIVEN BY POSTING THE NOTICE ON THE DOOR OF THE COURTHOUSE OR ON A BULLETIN BOARD IN THE IMMEDIATE VICINITY OF THE DOOR OF THE COURTHOUSE OF THE COUNTY WHERE THE LIVESTOCK IS LOCATED.

SUBTITLE 5. TERMINATION OF PRODUCTION CONTRACT.

24-501.

(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A CONTRACTOR MAY NOT TERMINATE, CANCEL, OR FAIL TO RENEW A PRODUCTION CONTRACT UNLESS:

(I) THE CONTRACTOR HAS GIVEN THE CONTRACT PRODUCER WRITTEN NOTICE OF THE CONTRACTOR'S INTENTION TO TERMINATE, CANCEL, OR NOT RENEW AT LEAST 90 DAYS BEFORE THE EFFECTIVE DATE OF THE TERMINATION, CANCELLATION, OR NONRENEWAL; AND

(II) THE CONTRACT PRODUCER HAS BEEN PAID ANY MONEY OWED UNDER THE CONTRACT AND REIMBURSED FOR DAMAGES INCURRED DUE TO THE TERMINATION, CANCELLATION, OR FAILURE TO RENEW.

(2) IF THE CONTRACT PRODUCER HAS MADE CAPITAL INVESTMENTS TO THE CONTRACT OPERATION UNDER THE TERMS OF THE CONTRACT, DAMAGES UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE BASED ON THE GREATER OF:

(I) THE VALUE OF THE REMAINING USEFUL LIFE OF THE STRUCTURES, MACHINERY, OR EQUIPMENT USED IN THE CONTRACT OPERATION; OR

(II) THE BALANCE LEFT ON ANY LOAN OBTAINED BY THE CONTRACT PRODUCER TO BUILD OR IMPROVE A STRUCTURE OR TO PURCHASE THE MACHINERY OR EQUIPMENT USED IN THE CONTRACT OPERATION.

(B) (1) IF A CONTRACT PRODUCER MATERIALLY BREACHES A PRODUCTION CONTRACT, INCLUDING THE INVESTMENT REQUIREMENTS OF THE CONTRACT, THE CONTRACTOR MAY NOT TERMINATE, CANCEL, OR FAIL TO RENEW THE PRODUCTION CONTRACT UNLESS:

(I) THE CONTRACTOR HAS GIVEN THE CONTRACT PRODUCER WRITTEN NOTICE OF TERMINATION, CANCELLATION, OR NONRENEWAL AT LEAST 45 DAYS BEFORE THE EFFECTIVE DATE OF THE TERMINATION, CANCELLATION, OR NONRENEWAL THAT STATES THE ALLEGED CAUSES OF THE BREACH; AND

(II) THE CONTRACT PRODUCER FAILS TO REMEDY EACH ALLEGED CAUSE OF THE BREACH STATED IN THE NOTICE WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE.

(2) AN EFFORT BY A CONTRACT PRODUCER TO REMEDY A CAUSE OF AN ALLEGED BREACH MAY NOT BE CONSTRUED AS AN ADMISSION OF A BREACH IN A CIVIL ACTION.

(C) (1) A CONTRACTOR MAY TERMINATE, CANCEL, OR FAIL TO RENEW A PRODUCTION CONTRACT WITHOUT NOTICE OR AN OPPORTUNITY FOR THE CONTRACT PRODUCER TO REMEDY AN ALLEGED BREACH AS REQUIRED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION IF THE BASIS FOR THE TERMINATION, CANCELLATION, OR NONRENEWAL IS:

(I) A VOLUNTARY ABANDONMENT OF THE CONTRACTUAL RELATIONSHIP BY THE CONTRACT PRODUCER; OR

(II) THE CONVICTION OF THE CONTRACT PRODUCER OF AN OFFENSE OF FRAUD OR THEFT COMMITTED AGAINST THE CONTRACTOR.

(2) A COMPLETE FAILURE OF A CONTRACT PRODUCER'S PERFORMANCE UNDER A PRODUCTION CONTRACT SHALL BE DEEMED TO BE AN ABANDONMENT FOR PURPOSES OF PARAGRAPH (1)(I) OF THIS SUBSECTION.

(D) IF A CONTRACTOR TERMINATES, CANCELS, OR FAILS TO RENEW A PRODUCTION CONTRACT EXCEPT AS PROVIDED IN THIS SECTION, THE CONTRACTOR SHALL PAY THE CONTRACT PRODUCER THE GREATER OF:

(1) THE VALUE OF THE REMAINING USEFUL LIFE OF THE STRUCTURES, MACHINERY, OR EQUIPMENT USED IN THE CONTRACT OPERATION; OR

(2) THE BALANCE LEFT ON ANY LOAN OBTAINED BY THE CONTRACT PRODUCER TO BUILD OR IMPROVE A STRUCTURE OR TO PURCHASE THE MACHINERY OR EQUIPMENT USED IN THE CONTRACT OPERATION.

SUBTITLE 6. RIGHTS OF CONTRACT PRODUCERS; UNFAIR CONTRACTOR PRACTICES.

24-601.

(A) A CONTRACT PRODUCER SHALL HAVE THE FOLLOWING RIGHTS:

(1) THE RIGHT TO JOIN OR BELONG TO, OR TO REFRAIN FROM JOINING OR BELONGING TO, AN ASSOCIATION OF PRODUCERS;

(2) THE RIGHT TO ENTER INTO A MEMBERSHIP AGREEMENT OR MARKETING CONTRACT WITH AN ASSOCIATION OF PRODUCERS, A PROCESSOR, OR ANOTHER PRODUCER, AND THE RIGHT TO EXERCISE CONTRACTUAL RIGHTS UNDER A MEMBERSHIP AGREEMENT OR MARKETING CONTRACT;

(3) THE RIGHT TO LAWFULLY PROVIDE STATEMENTS OR INFORMATION, INCLUDING TO THE UNITED STATES SECRETARY OF AGRICULTURE OR TO A LAW ENFORCEMENT AGENCY, REGARDING ALLEGED IMPROPER ACTIONS OR VIOLATIONS OF LAW BY A CONTRACTOR OR PROCESSOR, UNLESS THE STATEMENTS OR INFORMATION ARE DETERMINED TO BE LIBELOUS OR SLANDEROUS;

(4) THE RIGHT TO OBTAIN AND ENFORCE A LIEN UNDER § 24-401 OF THIS TITLE;

(5) THE RIGHT TO DISCLOSE THE TERMS OF A PRODUCTION CONTRACT TO ANY OTHER PERSON, INCLUDING MEMBERS OF THE PUBLIC, ELECTED OFFICIALS, OR THE PRESS, SUBJECT TO § 24-301(B) OF THIS TITLE;

(6) THE RIGHT TO COMMUNICATE FREELY WITH ANY OTHER PERSON, INCLUDING MEMBERS OF THE PUBLIC, ELECTED OFFICIALS, OR THE PRESS, REGARDING THE CONTRACT PRODUCER'S EXPERIENCE AS A CONTRACT PRODUCER, SUBJECT TO § 24-301(B) OF THIS TITLE;

(7) THE RIGHT TO REFUSE TO RETAIN ALL OR PART OF THE WASTE, INCLUDING POULTRY LITTER, GENERATED AT THE CONTRACT OPERATION BY THE PRODUCTION OF LIVESTOCK OWNED BY A CONTRACTOR, IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; AND

(8) THE RIGHT TO ENFORCE ANY OTHER PROTECTIONS AFFORDED UNDER THIS SUBTITLE OR ANY OTHER APPLICABLE LAW OR REGULATION.

(B) (1) A CONTRACT PRODUCER SHALL NOTIFY THE CONTRACTOR, IN WRITING, WITHIN 5 DAYS AFTER THE REMOVAL OF LIVESTOCK BY THE CONTRACTOR FROM THE CONTRACT OPERATION OF THE AMOUNT OF WASTE, IF ANY, THE PRODUCER WISHES TO RETAIN.

(2) (I) ANY WASTE THE CONTRACT PRODUCER DOES NOT WISH TO RETAIN IS DEEMED TO BE EXCESS WASTE.

(II) THE CONTRACTOR SHALL REMOVE, AT NO COST TO THE CONTRACT PRODUCER, ANY EXCESS WASTE FROM THE CONTRACT OPERATION WITHIN 30 DAYS AFTER NOTIFICATION BY THE CONTRACT PRODUCER.

24-602.

A CONTRACTOR MAY NOT ENGAGE IN OR ALLOW AN EMPLOYEE OR AGENT TO ENGAGE IN THE FOLLOWING PRACTICES IN CONNECTION WITH A PRODUCTION CONTRACT:

(1) TO TAKE ANY ACTION TO COERCE, INTIMIDATE, DISADVANTAGE, RETALIATE AGAINST, OR DISCRIMINATE AGAINST A CONTRACT PRODUCER BECAUSE THE CONTRACT PRODUCER EXERCISES OR ATTEMPTS TO EXERCISE ANY RIGHT OF THE CONTRACT PRODUCER, INCLUDING ACTIONS AFFECTING:

(I) THE EXECUTION, TERMINATION, EXTENSION, OR RENEWAL OF A PRODUCTION CONTRACT;

(II) THE TREATMENT OF A CONTRACT PRODUCER, INCLUDING PROVIDING DISCRIMINATORY OR PREFERENTIAL TERMS IN A PRODUCTION CONTRACT OR INTERPRETING TERMS OF AN EXISTING PRODUCTION CONTRACT IN A DISCRIMINATORY OR PREFERENTIAL MANNER;

(III) THE GRANT OR DENIAL OF A REWARD OR AN IMPOSITION OF A PENALTY IN ANY FORM, INCLUDING A FINANCIAL REWARD OR PENALTY RELATING TO A LOAN, A BONUS, OR AN INDUCEMENT; AND

(IV) ALTERATION OF THE QUALITY, QUANTITY, OR DELIVERY TIMES OF CONTRACT INPUTS, INCLUDING LIVESTOCK, FEED, OR ANY OTHER CONTRACT INPUT PROVIDED TO A CONTRACT PRODUCER;

(2) TO PROVIDE FALSE INFORMATION TO A CONTRACT PRODUCER, INCLUDING FALSE INFORMATION RELATING TO:

(I) A PRODUCER WITH WHOM THE CONTRACT PRODUCER ASSOCIATES OR AN ASSOCIATION OF PRODUCERS OR AN AGRICULTURAL ORGANIZATION WITH WHICH THE PRODUCER IS AFFILIATED, INCLUDING:

- 1. THE CHARACTER OF THE PRODUCER; AND**
- 2. THE CONDITION OF THE FINANCES OR THE MANAGEMENT OF THE ASSOCIATION OF PRODUCERS OR AGRICULTURAL ORGANIZATION; AND**

(II) THE RIGHTS OF CONTRACT PRODUCERS UNDER THIS TITLE OR ANY OTHER PROVISION OF LAW;

(3) TO REFUSE TO PROVIDE TO A CONTRACT PRODUCER, ON REQUEST, THE STATISTICAL INFORMATION AND DATA USED TO DETERMINE COMPENSATION PAID TO THE CONTRACT PRODUCER UNDER A PRODUCTION CONTRACT, INCLUDING FEED CONVERSION RATES, FEED ANALYSES, ORIGINATION AND BREEDER HISTORY;

(4) TO REFUSE TO ALLOW A CONTRACT PRODUCER OR THE CONTRACT PRODUCER'S DESIGNATED REPRESENTATIVE TO OBSERVE, BY ACTUAL OBSERVATION AT THE TIME OF WEIGHING, THE WEIGHTS AND MEASURES USED TO DETERMINE THE CONTRACT PRODUCER'S COMPENSATION UNDER A PRODUCTION CONTRACT;

(5) TO USE THE PERFORMANCE OF ANY OTHER CONTRACT PRODUCER TO DETERMINE THE COMPENSATION OF A CONTRACT PRODUCER UNDER A PRODUCTION CONTRACT OR AS THE BASIS FOR THE TERMINATION, CANCELLATION, OR RENEWAL OF A PRODUCTION CONTRACT;

(6) TO REQUIRE A CONTRACT PRODUCER TO MAKE NEW OR ADDITIONAL CAPITAL INVESTMENTS THAT ARE UNNECESSARY FOR THE PROPER FUNCTIONING OF THE CONTRACT OPERATION OR THE HEALTH, SAFETY, AND WELFARE OF THE LIVESTOCK OR THE PUBLIC UNLESS THE NEW OR ADDITIONAL CAPITAL INVESTMENTS ARE:

(I) PAID FOR BY THE CONTRACTOR; OR

(II) OFFSET BY OTHER COMPENSATION OR MODIFICATIONS TO THE TERMS OF THE PRODUCTION CONTRACT, IN A MANNER THAT THE CONTRACT PRODUCER AGREES TO, IN WRITING, AS CONSTITUTING ACCEPTABLE AND SATISFACTORY CONSIDERATION FOR THE NEW OR ADDITIONAL CAPITAL INVESTMENT;

(7) TO EXECUTE A PRODUCTION CONTRACT THAT VIOLATES § 24-201 OF THIS TITLE;

(8) TO EXECUTE A PRODUCTION CONTRACT THAT INCLUDES A CONFIDENTIALITY PROVISION IN VIOLATION OF § 24-301 OF THIS TITLE;

(9) TO EXECUTE A PRODUCTION CONTRACT WITHOUT A MEDIATION PROVISION AS REQUIRED UNDER § 24-701 OF THIS TITLE;

(10) TO EXECUTE A PRODUCTION CONTRACT THAT INCLUDES A WAIVER OF ANY RIGHT OF A CONTRACT PRODUCER OR ANY OBLIGATION OF A CONTRACTOR ESTABLISHED UNDER THIS TITLE; AND

(11) TO EXECUTE A PRODUCTION CONTRACT REQUIRING THE APPLICATION OF THE LAW OF ANOTHER STATE IN VIOLATION OF § 24-303 OF THIS TITLE.

SUBTITLE 7. MEDIATION.

24-701.

(A) A PRODUCTION CONTRACT SHALL CONTAIN LANGUAGE PROVIDING FOR RESOLUTION OF DISPUTES CONCERNING THE CONTRACT BY MEDIATION.

(B) (1) BOTH PARTIES TO A PRODUCTION CONTRACT MUST AGREE TO MEDIATION BEFORE MEDIATION MAY OCCUR.

(2) IF BOTH PARTIES AGREE TO MEDIATION, EITHER PARTY MAY MAKE A WRITTEN REQUEST TO THE MARYLAND MEDIATION AND CONFLICT RESOLUTION OFFICE FOR MEDIATION SERVICES.

(C) ANY DECISION MADE IN MEDIATION SHALL BE NONBINDING ON THE PARTIES AND DOES NOT PREVENT ANY PARTY FROM SEEKING ANY OTHER LEGAL REMEDY AVAILABLE UNDER THIS TITLE, INCLUDING REMEDIES SPECIFIED UNDER SUBTITLE 8 OF THIS TITLE.

SUBTITLE 8. ENFORCEMENT; PENALTIES.

24-801.

(A) A CONTRACTOR THAT VIOLATES § 24-602 OF THIS TITLE IS SUBJECT TO A CIVIL PENALTY OF UP TO \$50,000 PER VIOLATION.

(B) A CONTRACTOR OR PROCESSOR THAT VIOLATES § 24-602 OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$25,000.

24-802.

(A) THE ATTORNEY GENERAL SHALL ENFORCE THIS TITLE.

(B) IN ENFORCING THIS TITLE, THE ATTORNEY GENERAL MAY:

(1) SEEK AN INJUNCTION TO:

(I) RESTRAIN A CONTRACTOR FROM ENGAGING IN CONDUCT OR PRACTICES IN VIOLATION OF THIS TITLE; OR

(II) REQUIRE A CONTRACTOR TO COMPLY WITH A PROVISION OF THIS TITLE;

(2) OBTAIN A SUBPOENA FOR THE PRODUCTION OF DOCUMENTS, INCLUDING A PRODUCTION CONTRACT;

(3) BRING AN ACTION FOR CIVIL PENALTIES UNDER § 24-801(A) OF THIS SUBTITLE; AND

(4) BRING A CRIMINAL PROSECUTION UNDER § 24-801(B) OF THIS SUBTITLE.

24-803.

(A) IN ADDITION TO ANY ACTION BY THE ATTORNEY GENERAL UNDER § 24-802 OF THIS SUBTITLE AND ANY OTHER ACTION AUTHORIZED BY LAW, A CONTRACT PRODUCER THAT SUFFERS DAMAGES BECAUSE OF A CONTRACTOR'S VIOLATION OF THIS TITLE MAY BRING AN ACTION TO OBTAIN APPROPRIATE LEGAL AND EQUITABLE RELIEF, INCLUDING DAMAGES.

(B) IF A CONTRACT PRODUCER IS THE PREVAILING PARTY IN A CIVIL ACTION AGAINST A CONTRACTOR UNDER THIS SECTION, THE COURT SHALL AWARD THE CONTRACT PRODUCER REASONABLE ATTORNEY'S FEES AND OTHER LITIGATION EXPENSES.

(C) (1) IN ORDER TO OBTAIN INJUNCTIVE RELIEF, A CONTRACT PRODUCER MAY NOT BE REQUIRED TO POST A BOND, PROVE THE ABSENCE OF AN ADEQUATE REMEDY AT LAW, OR SHOW THE EXISTENCE OF SPECIAL CIRCUMSTANCES, UNLESS THE COURT FOR GOOD CAUSE OTHERWISE ORDERS.

(2) THE COURT MAY ORDER ANY APPROPRIATE EQUITABLE RELIEF IN AN ACTION UNDER THIS SECTION, INCLUDING ISSUING A TEMPORARY OR PERMANENT INJUNCTION.

SUBTITLE 9. MISCELLANEOUS PROVISIONS.

24-901.

THE ATTORNEY GENERAL MAY ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

24-902.

THIS TITLE APPLIES TO PRODUCTION CONTRACTS IN FORCE ON OR AFTER OCTOBER 1, 2015, REGARDLESS OF THE DATE THE PRODUCTION CONTRACT IS EXECUTED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.