

HOUSE BILL 304
EMERGENCY BILL

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2002 Regular Session
2lr0163
CF 2lr0162

By: **The Speaker (Administration) and Delegates Cole, D. Davis, Doory,
Hammen, Hubbard, McHale, McIntosh, Morhaim, Oaks, Phillips,
Turner, Vallario, and Wood**

Introduced and read first time: January 23, 2002
Assigned to: Judiciary and Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 18, 2002

CHAPTER _____

1 AN ACT concerning

2 **Agriculture - Infectious and Contagious Diseases - Administrative Search**
3 **Warrants**

4 FOR the purpose of authorizing the Secretary of Agriculture or the Secretary's
5 designee to apply to a certain court for an administrative search warrant;
6 specifying the information that must be contained in an application for an
7 administrative search warrant; requiring the Attorney General of Maryland to
8 approve the administrative search warrant application before filing the
9 application with the court; requiring a judge to make certain findings prior to
10 issuing the administrative warrant; specifying the information that must be
11 contained in the administrative search warrant; requiring the administrative
12 search warrant to be executed and returned within a certain time period;
13 requiring that any information obtained pursuant to an administrative search
14 warrant be confidential; making this Act an emergency measure; and generally
15 relating to infectious and contagious diseases and administrative search
16 warrants.

17 BY adding to
18 Article - Agriculture
19 Section 3-105.1
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2001 Supplement)

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

1

Article - Agriculture

2 3-105.1.

3 (A) THE SECRETARY OR A DESIGNEE OF THE SECRETARY MAY APPLY TO A
4 JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR AN ADMINISTRATIVE
5 SEARCH WARRANT TO ENTER ANY FACTORY, WAREHOUSE, VEHICLE, BUILDING,
6 ESTABLISHMENT, OR OTHER PREMISES TO CONDUCT ANY INSPECTION REQUIRED OR
7 AUTHORIZED BY LAW TO DETERMINE COMPLIANCE WITH THE PROVISIONS OF THIS
8 SUBTITLE RELATING TO THE REGULATION AND PREVENTION OF INFECTIOUS AND
9 CONTAGIOUS LIVESTOCK AND POULTRY DISEASES.

10 (B) (1) THE APPLICATION SHALL BE IN WRITING AND SIGNED AND SWORN
11 TO BY THE APPLICANT AND SHALL PARTICULARLY DESCRIBE THE PLACE,
12 STRUCTURE, PREMISES, VEHICLE, OR RECORDS TO BE INSPECTED AND THE NATURE,
13 SCOPE, AND PURPOSE OF THE INSPECTION TO BE PERFORMED BY THE APPLICANT.

14 (2) BEFORE THE FILING OF A SEARCH WARRANT APPLICATION WITH A
15 COURT, IT SHALL BE APPROVED BY THE ATTORNEY GENERAL OF MARYLAND AS TO
16 ITS LEGALITY IN BOTH FORM AND SUBSTANCE UNDER THE STANDARDS AND
17 CRITERIA OF THIS SECTION AND A STATEMENT TO THIS EFFECT SHALL BE
18 INCLUDED AS PART OF THE APPLICATION.

19 (C) A JUDGE OF A COURT REFERRED TO IN SUBSECTION (A) OF THIS SECTION
20 MAY ISSUE THE WARRANT ON FINDING THAT:

21 (1) THE APPLICANT HAS SOUGHT ACCESS TO THE PROPERTY FOR THE
22 PURPOSE OF MAKING AN INSPECTION;

23 (2) (I) AFTER REQUESTING, AT A REASONABLE TIME, THE OWNER,
24 TENANT, OR OTHER INDIVIDUAL IN CHARGE OF THE PROPERTY TO ALLOW ACCESS,
25 HAS BEEN DENIED ACCESS TO THE PROPERTY; OR

26 (II) AFTER MAKING A REASONABLE EFFORT, HAS BEEN UNABLE TO
27 LOCATE ANY OF THESE INDIVIDUALS;

28 (3) THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION ARE MET;

29 (4) THE SECRETARY OR DESIGNEE OF THE SECRETARY IS AUTHORIZED
30 OR REQUIRED BY LAW TO MAKE AN INSPECTION OF THE PROPERTY FOR WHICH THE
31 WARRANT IS SOUGHT; AND

32 (5) PROBABLE CAUSE FOR THE ISSUANCE OF THE WARRANT HAS BEEN
33 DEMONSTRATED BY THE APPLICANT BY SPECIFIC EVIDENCE OF AN EXISTING
34 VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY RULE OR REGULATION
35 ADOPTED UNDER THIS SUBTITLE ~~OR BY SHOWING:~~

36 ~~(I) THAT A REASONABLE ADMINISTRATIVE INSPECTION PROGRAM~~
37 ~~EXISTS REGARDING THE REGULATION AND PREVENTION OF INFECTIOUS AND~~
38 ~~CONTAGIOUS LIVESTOCK AND POULTRY DISEASES; AND~~

1 (H) ~~THAT THE PROPOSED INSPECTION COMES WITHIN THAT~~
2 PROGRAM.

3 (D) (1) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS
4 SECTION SHALL SPECIFY THE PLACE, STRUCTURE, PREMISES, VEHICLE, OR
5 RECORDS TO BE INSPECTED.

6 (2) THE INSPECTION CONDUCTED MAY NOT EXCEED THE LIMITS
7 SPECIFIED IN THE WARRANT.

8 (E) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION
9 AUTHORIZES THE SECRETARY OR DESIGNEE OF THE SECRETARY TO ENTER THE
10 SPECIFIED PROPERTY TO PERFORM THE INSPECTION, SAMPLING, AND OTHER
11 FUNCTIONS AUTHORIZED BY LAW TO DETERMINE COMPLIANCE WITH THE
12 PROVISIONS OF THIS SUBTITLE RELATING TO THE REGULATION AND PREVENTION
13 OF INFECTIOUS AND CONTAGIOUS LIVESTOCK AND POULTRY DISEASES.

14 (F) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION
15 SHALL BE EXECUTED AND RETURNED TO THE JUDGE BY WHOM IT WAS ISSUED
16 WITHIN:

17 (1) THE TIME SPECIFIED IN THE WARRANT, NOT TO EXCEED 30 DAYS; OR

18 (2) IF NO TIME PERIOD IS SPECIFIED IN THE WARRANT, 15 DAYS FROM
19 THE DATE OF ITS ISSUANCE.

20 (G) ANY INFORMATION OBTAINED PURSUANT TO AN ADMINISTRATIVE
21 SEARCH WARRANT SHALL BE CONSIDERED AS CONFIDENTIAL AND MAY NOT BE
22 DISCLOSED EXCEPT TO THE EXTENT UTILIZED IN AN ADMINISTRATIVE OR JUDICIAL
23 PROCEEDING.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an
25 emergency measure, is necessary for the immediate preservation of the public health
26 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
27 members elected to each of the two Houses of the General Assembly, and shall take
28 effect from the date it is enacted.