

SENATE BILL 236  
EMERGENCY BILL

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2002 Regular Session  
2lr0162  
CF 2lr0163

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By: **The President (Administration) and Senators Bromwell, Collins,  
Conway, Exum, Forehand, Green, Hollinger, Hughes, Kasemeyer, Kelley,  
Lawlah, Teitelbaum, and Van Hollen**

Introduced and read first time: January 18, 2002

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

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:

24 **Article - Agriculture**

25 3-105.1.

26 (A) THE SECRETARY OR A DESIGNEE OF THE SECRETARY MAY APPLY TO A  
27 JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR AN ADMINISTRATIVE  
28 SEARCH WARRANT TO ENTER ANY FACTORY, WAREHOUSE, VEHICLE, BUILDING,

1 ESTABLISHMENT, OR OTHER PREMISES TO CONDUCT ANY INSPECTION REQUIRED OR  
2 AUTHORIZED BY LAW TO DETERMINE COMPLIANCE WITH THE PROVISIONS OF THIS  
3 SUBTITLE RELATING TO THE REGULATION AND PREVENTION OF INFECTIOUS AND  
4 CONTAGIOUS LIVESTOCK AND POULTRY DISEASES.

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

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

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

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

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

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

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

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

27 (5) PROBABLE CAUSE FOR THE ISSUANCE OF THE WARRANT HAS BEEN  
28 DEMONSTRATED BY THE APPLICANT BY SPECIFIC EVIDENCE OF AN EXISTING  
29 VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY RULE OR REGULATION  
30 ADOPTED UNDER THIS SUBTITLE OR BY SHOWING:

31 (I) THAT A REASONABLE ADMINISTRATIVE INSPECTION PROGRAM  
32 EXISTS REGARDING THE REGULATION AND PREVENTION OF INFECTIOUS AND  
33 CONTAGIOUS LIVESTOCK AND POULTRY DISEASES; AND

34 (II) THAT THE PROPOSED INSPECTION COMES WITHIN THAT  
35 PROGRAM.

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

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

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

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

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

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

15     (G)     ANY INFORMATION OBTAINED PURSUANT TO AN ADMINISTRATIVE  
16 SEARCH WARRANT SHALL BE CONSIDERED AS CONFIDENTIAL AND MAY NOT BE  
17 DISCLOSED EXCEPT TO THE EXTENT UTILIZED IN AN ADMINISTRATIVE OR JUDICIAL  
18 PROCEEDING.

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