

**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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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 13, 2002

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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:

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**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.