
By: **Delegates Stull, Aumann, Barkley, Bartlett, Bobo, Cane, V. Clagett, Cluster, Conway, Dwyer, Edwards, Elliott, Elmore, Frank, Glassman, Haddaway, Hogan, James, Jennings, Kelly, Kohl, Kullen, McIntosh, McKee, McMillan, Myers, Parrott, Petzold, Rudolph, Smigiel, Sossi, Walkup, Weldon, and Wood**

Introduced and read first time: February 2, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Ethics - Employees or Officials of the Department of Agriculture - Farm**
3 **Business**

4 FOR the purpose of exempting certain officials or employees of the Department of
5 Agriculture who are employed by or have a financial interest in a farm business
6 from a certain prohibition against officials or employees holding certain
7 employment or having a certain financial interest; and generally relating to
8 employees or officials of the Department of Agriculture.

9 BY repealing and reenacting, without amendments,
10 Article - Agriculture
11 Section 2-102
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2005 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - State Government
16 Section 15-502
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2005 Supplement)

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

21 **Article - Agriculture**

22 2-102.

23 (a) The head of the Department is the Secretary of Agriculture, who shall be
24 appointed by the Governor, with the advice and consent of the Senate.

1 (b) The Secretary shall receive the salary provided in the State budget. He
2 serves at the pleasure of the Governor and is responsible directly to the Governor. The
3 Secretary shall counsel and advise the Governor on all matters assigned to the
4 Department of Agriculture and is responsible for carrying out the Governor's policies
5 with respect to these matters. The Secretary shall be responsible for the operation of
6 the Department and shall establish guidelines and procedures to promote the orderly
7 and efficient administration of the Department.

8 (c) The Secretary, with the approval of the Governor, shall appoint a deputy
9 secretary who has the duties provided by law or delegated by the Secretary. The
10 deputy secretary serves at the pleasure of the Secretary and shall receive the salary
11 provided in the State budget.

12 (d) (1) (i) The Secretary also shall have within the Department
13 assistants, professional consultants, and employees as provided in the State budget.

14 (ii) Assistants in charge of areas of responsibility and professional
15 consultants shall be in the executive service, management service, or special
16 appointments in the State Personnel Management System and shall serve at the
17 pleasure of the Secretary.

18 (iii) Wherever it is provided by law that the Secretary makes an
19 appointment to a particular office within the Department with the approval of the
20 Governor, the Secretary may not remove the appointee without first obtaining the
21 Governor's approval.

22 (2) Except as otherwise provided by law, the Secretary shall appoint and
23 remove all other personnel in accordance with the provisions of the State Personnel
24 and Pensions Article.

25 (3) The Secretary may delegate the authority to appoint and remove
26 personnel of any unit to the administrator of the unit.

27 **Article - State Government**

28 15-502.

29 (a) This section does not apply to members of the General Assembly.

30 (b) Except as provided in subsections (c) and (d) of this section, an official or
31 employee may not:

32 (1) be employed by or have a financial interest in:

33 (i) an entity subject to the authority of that official or employee or
34 of the governmental unit with which the official or employee is affiliated; or

35 (ii) an entity that is negotiating or has entered a contract with that
36 governmental unit or an entity that is a subcontractor on a contract with that
37 governmental unit; or

1 (2) hold any other employment relationship if that employment
2 relationship would impair the impartiality and independent judgment of the official
3 or employee.

4 (c) The prohibitions of subsection (b) of this section do not apply:

5 (1) to employment or a financial interest allowed by regulation of the
6 Ethics Commission if:

7 (i) the employment does not create a conflict of interest or the
8 appearance of a conflict of interest; or

9 (ii) the financial interest is disclosed;

10 (2) to a public official who is appointed to a regulatory or licensing unit
11 pursuant to a statutory requirement that entities subject to the jurisdiction of the
12 unit be represented in appointments to it;

13 (3) as allowed by regulations adopted by the Commission, to an employee
14 whose government duties are ministerial, if the private employment or financial
15 interest does not create a conflict of interest or the appearance of a conflict of interest;
16 [or]

17 (4) to a member of a board who holds the employment or financial
18 interest when appointed if the employment or financial interest is publicly disclosed
19 to the appointing authority, the Ethics Commission, and, if applicable, the Senate of
20 Maryland before Senate confirmation; OR

21 (5) TO EMPLOYMENT BY OR A FINANCIAL INTEREST IN A FARM
22 BUSINESS BY AN OFFICIAL OR EMPLOYEE OF THE DEPARTMENT OF AGRICULTURE
23 APPOINTED OR HIRED UNDER § 2-102 OF THE AGRICULTURE ARTICLE.

24 (d) (1) Subject to paragraph (2) of this subsection, the Ethics Commission
25 may exempt a public official of an executive unit or an employee of an executive unit
26 from the prohibitions of subsection (b) of this section if the Ethics Commission
27 determines that:

28 (i) failure to grant the exemption would limit the ability of the
29 State to:

30 1. recruit and hire highly qualified or uniquely qualified
31 professionals for public service; or

32 2. assure the availability of competent services to the public;
33 and

34 (ii) the number of exemptions granted under this subsection has
35 not tended to erode the purposes of subsection (b) of this section or other provisions of
36 this title.

1 (2) (i) The Ethics Commission may grant an exemption under
2 paragraph (1) of this subsection only:

- 3 1. in extraordinary situations; and
4 2. upon the recommendation of the Governor, at the request
5 of the executive unit involved.

6 (ii) The Ethics Commission shall apply this subsection as
7 consistently as possible under similar facts and circumstances.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2006.