

# SENATE BILL 90

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(PRE-FILED)

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By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Agriculture)**

Requested: November 15, 2009

Introduced and read first time: January 13, 2010

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Secretary of Agriculture – Farm Quarantine**

3 FOR the purpose of authorizing the Secretary of Agriculture to establish a farm  
4 quarantine and issue certain orders under certain circumstances; requiring the  
5 Secretary to consult with the Governor, the Secretary of Health and Mental  
6 Hygiene, and the Secretary of the Environment before establishing a  
7 quarantine; requiring the Secretary to give certain notice of a quarantine;  
8 requiring the Secretary to provide procedures to alter or remove a quarantine;  
9 authorizing the Secretary to take certain actions, including entering private  
10 property for certain purposes under certain circumstances; prohibiting a person  
11 from resisting a certain order or quarantine of the Secretary or concealing  
12 certain facts; authorizing a quarantine to provide for a civil penalty for certain  
13 purposes, not to exceed to a certain amount; authorizing the Secretary to bring  
14 an action for injunctive relief under certain circumstances; authorizing the  
15 Secretary to apply to a court for an administrative search warrant under certain  
16 circumstances; authorizing a judge to issue an administrative search warrant  
17 under certain circumstances; and generally relating to the authority of the  
18 Secretary of Agriculture to establish and to enforce a quarantine order to  
19 control or restrict the use of farmland, crops, livestock, or a farm product.

20 BY adding to

21 Article – Agriculture

22 Section 2–103.1 and 2–103.2

23 Annotated Code of Maryland

24 (2007 Replacement Volume and 2009 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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## Article – Agriculture

2 2-103.1.

3 (A) THE SECRETARY MAY ESTABLISH A FARM QUARANTINE AND ISSUE  
4 APPROPRIATE ORDERS NECESSARY TO CONTROL OR RESTRICT THE USE OF  
5 FARMLAND, CROPS, LIVESTOCK, OR A FARM PRODUCT EXISTING ON A FARM  
6 THAT:

7 (1) HAS BEEN EXPOSED OR CONTAMINATED BY A RADIOLOGICAL  
8 OR CHEMICAL TOXIC MATERIAL OR AGENT; OR

9 (2) IS INFECTED OR INFESTED WITH A DISEASE OR PEST.

10 (B) BEFORE ESTABLISHING A QUARANTINE FOR A FARM, THE  
11 SECRETARY SHALL CONSULT WITH THE GOVERNOR, THE SECRETARY OF  
12 HEALTH AND MENTAL HYGIENE, AND THE SECRETARY OF THE ENVIRONMENT  
13 ON ISSUES OF HUMAN HEALTH AND THE ENVIRONMENT.

14 (C) BEFORE A QUARANTINE OR ORDER ISSUED UNDER THIS SECTION  
15 TAKES EFFECT, THE SECRETARY SHALL GIVE REASONABLE NOTICE OF THE  
16 QUARANTINE OR ORDER:

17 (1) IN A NEWSPAPER OF GENERAL CIRCULATION IN THE  
18 QUARANTINE AREA;

19 (2) THROUGH TELEVISION OR RADIO SERVING THE  
20 QUARANTINED AREA;

21 (3) BY CIRCULATING NOTICES OR POSTING SIGNS AT  
22 CONSPICUOUS PLACES IN THE QUARANTINE AREA; OR

23 (4) BY NOTIFYING EACH LANDOWNER OR TENANT OF THE  
24 QUARANTINE OR ORDER.

25 (D) (1) THE SECRETARY SHALL ESTABLISH PROCEDURES TO ALLOW  
26 A LANDOWNER OR TENANT TO REQUEST THE AMENDMENT, RESCISSION, OR  
27 TERMINATION OF A QUARANTINE OR ORDER ISSUED UNDER THIS SECTION.

28 (2) A REQUEST TO AMEND, RESCIND, OR TERMINATE A  
29 QUARANTINE OR ORDER ISSUED UNDER THIS SECTION MAY NOT SUSPEND A  
30 QUARANTINE OR ORDER OF THE SECRETARY.

1           **(E) FOR THE PURPOSE OF CONTROLLING OR RESTRICTING THE USE OF**  
2 **FARMLAND, CROPS, LIVESTOCK, OR FARM PRODUCTS AS PROVIDED BY THIS**  
3 **SECTION, THE SECRETARY MAY:**

4           **(1) QUARANTINE A FARM AREA OF THE STATE KNOWN OR**  
5 **REASONABLY BELIEVED TO CONTAIN A FARM PRODUCT, CROPS, LIVESTOCK, OR**  
6 **FARMLAND IN AN INFECTED, INFESTED, OR CONTAMINATED CONDITION;**

7           **(2) REGULATE THE MOVEMENT, DISTRIBUTION, SALE, OR**  
8 **TRANSPORTATION OF A CROP, LIVESTOCK, OR FARM PRODUCT WHEN IT IS**  
9 **REASONABLY LIKELY TO TRANSFER INFESTATION, INFECTION, OR**  
10 **CONTAMINATION;**

11           **(3) REGULATE OR PROHIBIT THE ON-FARM GRAZING OF**  
12 **LIVESTOCK, SLAUGHTER AND PROCESSING OF LIVESTOCK AND POULTRY,**  
13 **PROCESSING OF EGGS, AND HARVESTING OR PLANTING OF A CROP IN A**  
14 **QUARANTINED AREA WHEN THE SECRETARY DETERMINES THAT THE ACTION**  
15 **MAY PREVENT, LIMIT, CONTROL, OR ERADICATE ANY THREAT;**

16           **(4) DIRECT AS PART OF A QUARANTINE ORDER FOR A**  
17 **QUARANTINED FARM AREA, TREATMENTS OR DECONTAMINATION;**

18           **(5) ENTER PRIVATE LAND THAT IS PART OF A FARM OPERATION**  
19 **TO INSPECT, SAMPLE, OR TEST SOIL OR CROPS, LIVESTOCK, OR A FARM**  
20 **PRODUCT ON A FARM; AND**

21           **(6) DIRECT THE TREATMENT, STOP-SALE, DETENTION,**  
22 **CONDEMNATION, SEIZURE, OR DESTRUCTION OF ANY CROP, LIVESTOCK, OR**  
23 **FARM PRODUCT WHEN THE SECRETARY KNOWS OR REASONABLY BELIEVES**  
24 **THAT THE ACTION IS NECESSARY TO CONTROL, RETARD, OR ERADICATE A**  
25 **THREAT ON A FARM.**

26           **(F) A PERSON MAY NOT RESIST THE APPLICATION OF A QUARANTINE**  
27 **OR ORDER OF THE SECRETARY.**

28           **(G) A PERSON MAY NOT CONCEAL THE FACT THAT A FARM HAS BEEN**  
29 **EXPOSED TO OR CONTAMINATED BY ANY RADIOLOGICAL OR CHEMICAL AGENT**  
30 **OR TOXIC MATERIAL OR HAS BEEN INFECTED OR INFESTED WITH ANY DISEASE**  
31 **OR PEST.**

32           **(H) ANY FARM QUARANTINE OR ORDER BY THE SECRETARY UNDER**  
33 **THIS SECTION MAY PROVIDE FOR:**

1           (1) THE IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING  
2 **\$10,000** FOR EACH VIOLATION; AND

3           (2) THE METHOD AND CONDITIONS OF COLLECTING THE CIVIL  
4 PENALTY.

5           (i) (1) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION  
6 AGAINST A PERSON VIOLATING THE PROVISIONS OF THIS SECTION, OR  
7 VIOLATING A VALID ORDER OR FARM QUARANTINE ISSUED BY THE SECRETARY.

8           (2) IN AN ACTION FOR AN INJUNCTION BROUGHT UNDER THIS  
9 SECTION, A FINDING OF THE SECRETARY AFTER A HEARING SHALL BE PRIMA  
10 FACIE EVIDENCE OF EACH FACT FOUND.

11           (3) ON A SHOWING BY THE SECRETARY THAT A PERSON IS  
12 VIOLATING OR IS ABOUT TO VIOLATE THE PROVISIONS OF THIS SECTION OR IS  
13 VIOLATING OR IS ABOUT TO VIOLATE ANY VALID ORDER OR QUARANTINE  
14 ISSUED BY THE SECRETARY, AN INJUNCTION SHALL BE GRANTED WITHOUT THE  
15 NECESSITY OF SHOWING A LACK OF ADEQUATE REMEDY AT LAW.

16           (4) IN CIRCUMSTANCES OF AN EMERGENCY CREATING  
17 CONDITIONS OF IMMINENT DANGER TO AGRICULTURE, PUBLIC HEALTH AND  
18 SAFETY, OR THE ENVIRONMENT, THE SECRETARY MAY INSTITUTE AN ACTION  
19 FOR AN IMMEDIATE INJUNCTION TO HALT ANY ACTIVITY CAUSING THE DANGER.

20           (5) AN INJUNCTION INSTITUTED UNDER THIS SECTION SHALL BE  
21 ISSUED WITHOUT BOND.

22           (j) THE SECRETARY MAY ORDER ANY SHERIFF, DEPUTY SHERIFF, OR  
23 OTHER LAW ENFORCEMENT OFFICER OF THE STATE OR OF ANY COUNTY TO  
24 PROVIDE INFORMATION OR ASSIST IN THE EXECUTION OR ENFORCEMENT OF  
25 ANY FARM QUARANTINE OR ORDER OF THE SECRETARY.

26 **2-103.2.**

27           (a) THE SECRETARY OR A DESIGNEE OF THE SECRETARY MAY APPLY  
28 TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR AN  
29 ADMINISTRATIVE SEARCH WARRANT TO ENTER ANY FARM TO CONDUCT ANY  
30 INSPECTION REQUIRED OR AUTHORIZED BY LAW TO DETERMINE COMPLIANCE  
31 WITH THE PROVISIONS RELATING TO THE CONTROL AND RESTRICTION OF  
32 FARMLAND, CROPS, LIVESTOCK, OR FARM PRODUCTS, EXPOSED TO OR  
33 CONTAMINATED BY ANY RADIOLOGICAL OR CHEMICAL TOXIC MATERIAL OR  
34 AGENT OR INFECTED OR INFESTED WITH ANY DISEASE OR PEST.

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

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

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

13           **(1) THE APPLICANT HAS SOUGHT ACCESS TO THE PROPERTY FOR**  
14 **THE PURPOSE OF MAKING AN INSPECTION;**

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

18           **(II) AFTER MAKING A REASONABLE EFFORT, THE**  
19 **APPLICANT HAS BEEN UNABLE TO LOCATE THE OWNER, TENANT, OR OTHER**  
20 **INDIVIDUAL IN CHARGE OF THE PROPERTY;**

21           **(3) THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION**  
22 **ARE MET;**

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

26           **(5) PROBABLE CAUSE FOR THE ISSUANCE OF THE WARRANT HAS**  
27 **BEEN DEMONSTRATED BY THE APPLICANT BY SPECIFIC EVIDENCE OF ANY**  
28 **FARMLAND, CROPS, LIVESTOCK, OR FARM PRODUCT EXPOSED TO OR**  
29 **CONTAMINATED BY ANY RADIOLOGICAL OR CHEMICAL AGENT OR INFECTED OR**  
30 **INFESTED WITH ANY DISEASE OR PEST.**

31           **(D) (1) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS**  
32 **SECTION SHALL SPECIFY THE PLACE, STRUCTURE, PREMISES, VEHICLE, OR**  
33 **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**  
4 **SECTION AUTHORIZES THE SECRETARY OR DESIGNEE OF THE SECRETARY TO**  
5 **ENTER THE SPECIFIED PROPERTY TO PERFORM THE INSPECTION, SAMPLING,**  
6 **AND OTHER FUNCTIONS AUTHORIZED BY LAW TO DETERMINE WHETHER THE**  
7 **FARMLAND, CROPS, LIVESTOCK, OR FARM PRODUCT IS CONTAMINATED BY A**  
8 **RADIOLOGICAL OR CHEMICAL AGENT OR INFECTED OR INFESTED WITH A**  
9 **DISEASE OR PEST.**

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

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

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

17           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2010.