

Chapter 34

(Senate Bill 90)

AN ACT concerning

Secretary of Agriculture – Farm Quarantine

FOR the purpose of authorizing the Secretary of Agriculture to establish a farm quarantine and issue certain orders under certain circumstances; requiring the Secretary to consult with the Governor, the Secretary of Health and Mental Hygiene, and the Secretary of the Environment before establishing a quarantine; requiring the Secretary to give certain notice of a quarantine; requiring the Secretary to provide procedures to alter or remove a quarantine; authorizing the Secretary to take certain actions, including entering private property for certain purposes under certain circumstances; prohibiting a person from resisting a certain order or quarantine of the Secretary or concealing certain facts; authorizing a quarantine to provide for a civil penalty for certain purposes, not to exceed to a certain amount; authorizing the Secretary to bring an action for injunctive relief under certain circumstances; providing that certain provisions of this Act do not limit the authority of the Secretary of the Environment under a certain provision of law; authorizing the Secretary to apply to a court for an administrative search warrant under certain circumstances; authorizing a judge to issue an administrative search warrant under certain circumstances; and generally relating to the authority of the Secretary of Agriculture to establish and to enforce a quarantine order to control or restrict the use of farmland, crops, livestock, poultry, or a farm product.

BY adding to

Article – Agriculture
Section 2-103.1 and 2-103.2
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Agriculture

2-103.1.

(A) THE SECRETARY MAY ESTABLISH A FARM QUARANTINE AND ISSUE APPROPRIATE ORDERS NECESSARY TO CONTROL OR RESTRICT THE USE OF

FARMLAND, CROPS, LIVESTOCK, POULTRY, OR A FARM PRODUCT EXISTING ON A FARM THAT:

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

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

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

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

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

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

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

(4) BY NOTIFYING EACH LANDOWNER OR, TENANT, OR ANIMAL OWNER OF THE QUARANTINE OR ORDER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(K) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT ANY AUTHORITY OF THE SECRETARY OF THE ENVIRONMENT UNDER § 8-105 OF THE ENVIRONMENT ARTICLE.

2-103.2.

(A) THE SECRETARY OR A DESIGNEE OF THE SECRETARY MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR AN ADMINISTRATIVE SEARCH WARRANT TO ENTER ANY FARM TO CONDUCT ANY INSPECTION REQUIRED OR AUTHORIZED BY LAW TO DETERMINE COMPLIANCE WITH THE PROVISIONS RELATING TO THE CONTROL AND RESTRICTION OF FARMLAND, CROPS, LIVESTOCK, POULTRY, OR FARM PRODUCTS, EXPOSED TO

OR CONTAMINATED BY ANY RADILOGICAL OR CHEMICAL TOXIC MATERIAL OR AGENT OR INFECTED OR INFESTED WITH ANY DISEASE OR PEST.

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

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

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

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

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

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

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

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

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

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

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

(E) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION AUTHORIZES THE SECRETARY OR DESIGNEE OF THE SECRETARY TO ENTER THE SPECIFIED PROPERTY TO PERFORM THE INSPECTION, SAMPLING, AND OTHER FUNCTIONS AUTHORIZED BY LAW TO DETERMINE WHETHER THE FARMLAND, CROPS, LIVESTOCK, POULTRY, OR FARM PRODUCT IS CONTAMINATED BY A RADIOLOGICAL OR CHEMICAL AGENT OR INFECTED OR INFESTED WITH A DISEASE OR PEST.

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

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

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

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

Approved by the Governor, April 13, 2010.