

Chapter 412

(House Bill 420)

AN ACT concerning

Secretary of Agriculture – Mosquito Control – Enforcement Authority

FOR the purpose of authorizing the Secretary of Agriculture to issue and serve a mosquito abatement order on certain persons under certain circumstances; ~~authorizing the Secretary to enter on and inspect private property for certain purposes;~~ authorizing the Secretary to bring action for injunctive relief under certain circumstances; establishing a certain ~~penalty~~ *penalties* for any person who violates a mosquito abatement order issued by the Secretary; and generally relating to mosquito abatement by the Department of Agriculture.

BY adding to

Article – Agriculture

Section ~~5-406~~ through ~~5-409~~ 5-408

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

5-406.

(A) IF THE SECRETARY, ~~AFTER CONSULTING~~ IN COOPERATION WITH THE LOCAL HEALTH AUTHORITY, FINDS THAT A PERSON IS CAUSING OR ALLOWING MOSQUITOES TO BREED OR DEVELOP ON ANY PROPERTY IN A MANNER THAT MAY POSE A THREAT TO PUBLIC HEALTH, THE SECRETARY MAY ORDER THAT THE PERSON ABATE THE MOSQUITO HABITAT IN A MANNER AND AT A TIME SPECIFIED IN THE ORDER.

(B) AFTER ALL REASONABLE ATTEMPTS OF ABATEMENT HAVE FAILED, AN ORDER ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL BE SERVED:

(1) ON THE PERSON WHO IS CAUSING OR ALLOWING MOSQUITOES TO BREED OR DEVELOP; OR

(2) IF THE PERSON WHO IS CAUSING OR ALLOWING THE MOSQUITOES TO BREED OR DEVELOP CANNOT BE FOUND, ON THE OWNER OR OCCUPANT OF THE PROPERTY WHERE THE MOSQUITOES EXIST.

~~5-407.~~

~~AFTER MAKING A REASONABLE ATTEMPT TO LOCATE THE OWNER OR TENANT ON THE PREMISES FOR PERMISSION TO ENTER AND GIVING THE OWNER OR TENANT A REASONABLE AMOUNT OF TIME TO RESPOND, THE SECRETARY MAY ENTER ON AND INSPECT, AT ANY REASONABLE HOUR, ANY PRIVATE PROPERTY, EXCLUDING A DWELLING, TO DETERMINE WHETHER MOSQUITOES ARE BREEDING OR DEVELOPING.~~

~~5-408.~~ 5-407.

(A) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION AGAINST ANY PERSON VIOLATING ANY ORDER ISSUED BY THE SECRETARY UNDER § 5-406 OF THIS SUBTITLE.

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

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

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

~~5-409.~~ 5-408.

A PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF AN ORDER SERVED UNDER § 5-406 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$1,000; AND

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$5,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not increase the duties or responsibilities of local health authorities to engage in mosquito control activity.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.