

No. 42. An act relating to miscellaneous agricultural subjects.

(S.115)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Livestock; Quarantine * * *

Sec. 1. 6 V.S.A. § 1157(a) is amended to read:

(a) The Secretary may order any domestic animals, the premises upon which they are or have been located, any animal products derived from those domestic animals, and any equipment, materials, or products to which they have been exposed to be placed in quarantine if the animals:

- (1) are affected with a contagious disease;
- (2) have been exposed to a contagious disease;
- (3) may be infected with or have been exposed to a contagious disease;
- (4) are suspected of having biological or chemical residues, including

antibiotics, in their tissues that would cause the carcasses of the animals, if slaughtered, to be adulterated within the meaning of chapter 204 of this title; or

(5) are suspected of having been exposed to biological or chemical agents that may cause the animal's milk, processed dairy product, or other product to be adulterated or otherwise unsafe for human consumption or use;

or

(6) are owned or controlled by a person who has violated any provision of this part, and the Secretary finds that a quarantine is necessary to protect the public welfare.

* * * Eggs * * *

Sec. 2. 6 V.S.A. § 352 is amended to read:

§ 352. PROHIBITION

A person shall not:

(1) sell, expose, offer for sale, or advertise for sale or exchange in Vermont as “fresh,” “strictly fresh,” “henery,” “new laid,” “native,” “today’s,” “nearby,” “selected,” “guaranteed,” “new arrivals,” “A 1 candled,” or other words or descriptions of similar import any eggs which are not grade A or better;

(2) advertise or label eggs in a false or misleading manner;

(3) sell, offer for sale, deliver, or donate eggs that do not satisfy the requirements of this chapter or the rules adopted pursuant to it; or

(4) sell, offer for sale, deliver, or donate eggs that are adulterated within the meaning of 18 V.S.A. § 4059 or the rules adopted under 18 V.S.A. chapter 82.

Sec. 3. 6 V.S.A. § 355 is amended to read:

§ 355. ENFORCEMENT; RULES; INSPECTORS

The Secretary of Agriculture, Food and Markets, ~~through the Division of Business Development,~~ shall enforce the provisions of this chapter and shall establish such rules and employ such inspectors as are deemed necessary and advisable. Such duly appointed inspectors shall have free access at all

reasonable hours to any building or other place where it is reasonable to believe eggs are being sold, offered, or exposed for sale.

Sec. 4. 6 V.S.A. § 356 is amended to read:

§ 356. NOTICE OF VIOLATION

~~When the Secretary becomes cognizant of a violation of a provision of this chapter, he or she may cause notice of such fact to be given to the person concerned and to the State's Attorney of the county in which the offense was committed, or in which the violator resides or has a place of business~~ When the Secretary of Agriculture, Food and Markets determines that a person is violating this chapter or any rule adopted thereunder, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this section shall include:

- (1) a description of the alleged violation;
- (2) identification of this section;
- (3) identification of the applicable violation; and
- (4) the required corrective action that the person shall take to correct the

violation.

Sec. 5. 6 V.S.A. § 357 is amended to read:

§ 357. PENALTY

~~(a) A person who violates any provision of this chapter shall be fined not more than \$100.00 nor less than \$25.00 for the first offense and not more than \$500.00 nor less than \$50.00 for each subsequent offense. A person who~~

~~obstructs or hinders the Secretary or any of his or her assistants in the performance of his or her duties under this chapter shall be fined not more than \$500.00 nor less than \$50.00~~ Notwithstanding the requirements of section 356 of this title, the Secretary at any time may pursue one or more of the following:

(1) issue an appropriate order including a cease and desist or stop sale order to a person the Secretary believes to be in violation of this chapter or an underlying rule;

(2) order mandatory corrective actions;

(3) take any action authorized under chapter 1 of this title;

(4) seek administrative or civil penalties in accordance with the requirements of section 15, 16, or 17 of this title.

(b) When the Secretary of Agriculture, Food and Markets issues an order to cease and desist, stop sale, or take other action, or a required corrective action, the Secretary shall provide the person subject to the order or corrective action a statement that the order or corrective action is effective upon receipt and the person has 15 days to request a hearing.

(c) If the Secretary of Agriculture, Food and Markets issues a verbal order under this section, the Secretary shall issue written notice to the person subject to the order within five business days following the issuance of the verbal order. The written notice shall include a statement that the person has 15 days from the date the written notice was received to request a hearing.

(d) If a person who receives a written order to cease and desist, stop sale, or take other action, or a written required corrective action, does not request a hearing in writing within 15 days after receipt of the written order or required corrective action, the person waives the right to a hearing. Upon receipt of a written request for a hearing, the Secretary shall promptly set a date and time for a hearing. A request for a hearing on an order issued under this section shall not stay the order.

(e) A person aggrieved by a final action or decision of the Secretary under this section may appeal de novo to the Civil Division of the Superior Court within 30 days of the Secretary's final decision.

* * * Agency Enforcement Authority * * *

Sec. 6. 6 V.S.A. § 15 is amended to read:

§ 15. ADMINISTRATIVE PENALTIES

(a) In addition to other penalties provided by law, the Secretary may assess administrative penalties, not to exceed ~~\$1,000.00~~ \$5,000.00, for each violation of this title and Titles 9 and 20, unless a higher administrative penalty amount is otherwise provided for in Title 9 or Title 20.

(b) In determining the amount of the penalty to be assessed under this section, the Secretary may give consideration to one or more of the following:

(1) the degree of actual and potential impact on public health, safety, and welfare resulting from the violation;

(2) the presence of mitigating or aggravating circumstances;

(3) whether the violator has been warned or found in violation of the same provisions of law in the past;

(4) the economic benefit gained by the violation;

(5) the deterrent effect of the penalty;

(6) the financial condition of the violator.

(c) Each violation may be a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed to be a separate and distinct offense. In no event shall the maximum amount of the penalty assessed under this section exceed ~~\$25,000.00~~ \$50,000.00.

(d) In addition to the administrative penalties authorized by this section, the Secretary may recover the costs of investigation, which shall be credited to a special fund and shall be available to the Agency to offset these costs.

(e) Any party aggrieved by a final decision of the Secretary may appeal de novo to the Superior Court within 30 days of the final decision of the Secretary. The Secretary may enforce a final administrative penalty by filing a civil collection action in any District or Superior Court.

* * * Water Quality * * *

Sec. 7. 6 V.S.A. § 4828(a) is amended to read:

(a) It is the purpose of this section to provide assistance to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters,

reduce odors from manure application, separate phosphorus from manure, decrease mitigate greenhouse ~~gas emissions~~ gases, and reduce costs to farmers.

Sec. 8. 24 V.S.A. § 4414(9) is amended to read:

(9) Stormwater management and control. Any municipality may adopt bylaws to implement stormwater management and control consistent with the program developed by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1264. Municipalities shall not charge an impervious surface fee or other stormwater fee under this subdivision or under other provisions of this title on property regulated under the Required Agricultural Practices for discharges of agricultural waste or agricultural nonpoint source pollution.

Sec. 9. IMPLEMENTATION PROSPECTIVE APPLICATION

Sec. 8 (municipal stormwater fees on agricultural nonpoint source pollution) of this act shall apply prospectively and shall not require a municipality to refund stormwater fees assessed prior to the effective date of this act on properties or activities that are exempt from such fees under 24 V.S.A. § 4414(9) as amended by this act.

* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

Date Governor signed bill: June 1, 2023