

# SENATE BILL 142

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

Introduced and read first time: January 18, 2012

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 21, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Secretary of Agriculture – Farm Food Safety**

3 FOR the purpose of authorizing the Secretary of Agriculture to establish a farm  
4 quarantine for a certain purpose on a farm that is infected or infested with a  
5 pathogen; authorizing the Secretary to examine certain practices in accordance  
6 with certain standards; authorizing the Secretary to designate a certain person  
7 to conduct an inspection of certain practices; authorizing the Secretary to accept  
8 certain assistance from certain federal agencies; requiring the Secretary to deny  
9 access to certain information subject to a certain exception; authorizing the  
10 Secretary to revoke or suspend a certain certificate under certain  
11 circumstances; making a clarifying change; altering a certain definition; and  
12 generally relating to the Secretary's authority to establish a farm quarantine  
13 and examine, inspect, and certify farm products.

14 BY repealing and reenacting, with amendments,  
15 Article – Agriculture  
16 Section 2–103.1, 10–601, 10–602, and 10–603  
17 Annotated Code of Maryland  
18 (2007 Replacement Volume and 2011 Supplement)

19 BY adding to  
20 Article – Agriculture  
21 Section 10–607 and 10–608  
22 Annotated Code of Maryland

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2007 Replacement Volume and 2011 Supplement)

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

4 **Article – Agriculture**

5 2–103.1.

6 (a) The Secretary may establish a farm quarantine and issue appropriate  
7 orders necessary to control or restrict the use of farmland, crops, livestock, poultry, or  
8 a farm product existing on a farm that:

9 (1) Has been exposed to or contaminated by a radiological or chemical  
10 toxic material or agent; or

11 (2) Is infected or infested with a disease [or], pest, **OR PATHOGEN.**

12 (b) Before establishing a quarantine for a farm, the Secretary shall consult  
13 with the Governor, the Secretary of Health and Mental Hygiene, and the Secretary of  
14 the Environment on issues of human health and the environment.

15 (c) Before a quarantine or order issued under this section takes effect, the  
16 Secretary shall give reasonable notice of the quarantine or order:

17 (1) In a newspaper of general circulation in the quarantine area;

18 (2) Through television or radio serving the quarantine area;

19 (3) By circulating notices or posting signs at conspicuous places in the  
20 quarantine area; or

21 (4) By notifying each landowner, tenant, or animal owner of the  
22 quarantine or order.

23 (d) (1) The Secretary shall establish procedures to allow a landowner,  
24 tenant, or animal owner to request the amendment, rescission, or termination of a  
25 quarantine or order issued under this section.

26 (2) A request to amend, rescind, or terminate a quarantine or order  
27 issued under this section may not suspend a quarantine or order of the Secretary.

28 (e) For the purpose of controlling or restricting the use of farmland, crops,  
29 livestock, poultry, or farm products as provided by this section, the Secretary may:

1           (1)    Quarantine a farm area of the State known or reasonably believed  
2 to contain a farm product, crops, livestock, poultry, or farmland in an infected,  
3 infested, or contaminated condition;

4           (2)    Regulate the movement, distribution, sale, or transportation of a  
5 crop, livestock, poultry, or farm product when it is reasonably likely to transfer  
6 infestation, infection, or contamination;

7           (3)    Regulate or prohibit the on-farm grazing of livestock and poultry,  
8 slaughter and processing of livestock and poultry, [processing] **PACKING** of eggs, and  
9 harvesting or planting of a crop in a quarantined area when the Secretary determines  
10 that the action may prevent, limit, control, or eradicate any threat;

11           (4)    Direct as part of a quarantine order for a quarantined farm area,  
12 treatments or decontamination;

13           (5)    Enter private land that is part of a farm operation to inspect,  
14 sample, or test soil or crops, livestock, poultry, or a farm product on a farm; and

15           (6)    Direct the treatment, stop-sale, detention, condemnation, seizure,  
16 or destruction of any crop, livestock, poultry, or farm product when the Secretary  
17 knows or reasonably believes that the action is necessary to control, retard, or  
18 eradicate a threat on a farm.

19           (f)    A person may not resist the application of a quarantine or order of the  
20 Secretary.

21           (g)    A person may not conceal the fact that a farm has been exposed to or  
22 contaminated by any radiological or chemical agent or toxic material or has been  
23 infected or infested with any disease [or], pest, **OR PATHOGEN**.

24           (h)    Any farm quarantine or order by the Secretary under this section may  
25 provide for:

26           (1)    The imposition of a civil penalty not exceeding \$10,000 for each  
27 violation; and

28           (2)    The method and conditions of collecting the civil penalty.

29           (i)    (1)    The Secretary may bring an action for an injunction against a  
30 person violating the provisions of this section, or violating a valid order or farm  
31 quarantine issued by the Secretary.

32           (2)    In an action for an injunction brought under this section, a finding  
33 of the Secretary after a hearing shall be prima facie evidence of each fact found.

1 (3) On a showing by the Secretary that a person is violating or is about  
2 to violate the provisions of this section or is violating or is about to violate any valid  
3 order or quarantine issued by the Secretary, an injunction shall be granted without  
4 the necessity of showing a lack of adequate remedy at law.

5 (4) In circumstances of an emergency creating conditions of imminent  
6 danger to agriculture, public health and safety, or the environment, the Secretary may  
7 institute an action for an immediate injunction to halt any activity causing the danger.

8 (5) An injunction instituted under this section shall be issued without  
9 bond.

10 (j) The Secretary may order any sheriff, deputy sheriff, or other law  
11 enforcement officer of the State or of any county to provide information or assist in the  
12 execution or enforcement of any farm quarantine or order of the Secretary.

13 (k) Nothing in this section shall be construed to limit any authority of the  
14 Secretary of the Environment under § 8-105 of the Environment Article.

15 10-601.

16 (a) In this subtitle the following words have the meanings indicated.

17 (b) "Certificate" means a certificate of the quality, condition, grade, **FOOD**  
18 **SAFETY STANDARD**, or other classification of any farm product and includes a  
19 certificate of the Secretary, [or] of the United States Department of Agriculture, **OR**  
20 **OF THE UNITED STATES FOOD AND DRUG ADMINISTRATION**.

21 (c) "Farm product" means any agricultural, horticultural, vegetable, or fruit  
22 product of the soil, including livestock, meats, marine food products, poultry, eggs,  
23 dairy products, wool, hides, feathers, nuts, honey, and every product of farm, forest,  
24 orchard, garden or water, but does not include canned, frozen, dried, or pickled  
25 products.

26 10-602.

27 When requested by any person financially interested in any farm product, the  
28 Secretary may:

29 (1) Examine the product **AND PRACTICES USED IN ITS PRODUCTION**  
30 to determine its quality, condition, grade, or other classification, either on the basis of  
31 the standards established by the Secretary, or the standards announced from time to  
32 time by the United States Department of Agriculture **OR THE UNITED STATES**  
33 **FOOD AND DRUG ADMINISTRATION**;

34 (2) Provide the person with an official certificate; and

1           (3) Adopt rules and regulations concerning the inspection and  
2 certification of any farm product, including the payment of reasonable fees, as  
3 necessary to effectuate the purposes of this subtitle.

4   10-603.

5           **(A)** The Secretary shall cooperate with the United States government and  
6 any federal agency and may designate any competent person who has been licensed,  
7 **COMMISSIONED, OR CREDENTIALLED** for work by the United States Department of  
8 Agriculture **OR THE UNITED STATES FOOD AND DRUG ADMINISTRATION**, to  
9 **INSPECT**, examine, classify, and certify any farm product **OR FARM PRODUCTION**  
10 **PRACTICES** in accordance with the rules and regulations it adopts and at the places  
11 the volume of business warrants.

12           **(B) THE SECRETARY MAY ACCEPT TECHNICAL, FINANCIAL, AND**  
13 **ADVISORY ASSISTANCE FROM ANY COOPERATING FEDERAL AGENCY.**

14   **10-607.**

15           **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE**  
16 **SECRETARY SHALL DENY ACCESS TO ANY BUSINESS-RELATED INFORMATION**  
17 **CONCERNING ANY PERSON WHO APPLIES FOR A CERTIFICATE OR IS CERTIFIED**  
18 **UNDER THIS SUBTITLE.**

19           **(B) IF THE SECRETARY DETERMINES THAT DISCLOSURE IS NECESSARY**  
20 **TO PROTECT THE PUBLIC HEALTH, THE SECRETARY MAY DISCLOSE ANY**  
21 **BUSINESS-RELATED INFORMATION CONCERNING ANY PERSON WHO APPLIES**  
22 **FOR A CERTIFICATE OR IS CERTIFIED UNDER THIS SUBTITLE.**

23   **10-608.**

24           **AFTER AN OPPORTUNITY FOR A HEARING, THE SECRETARY MAY REVOKE**  
25 **OR SUSPEND A CERTIFICATE ISSUED UNDER THIS SUBTITLE TO ANY PERSON**  
26 **FOR FAILING TO COMPLY WITH ANY REGULATION ADOPTED UNDER THIS**  
27 **SUBTITLE.**

28           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 July 1, 2012.