

Chapter 32

(Senate Bill 142)

AN ACT concerning

Secretary of Agriculture – Farm Food Safety

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

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

BY adding to
Article – Agriculture
Section 10–607 and 10–608
Annotated Code of Maryland
(2007 Replacement Volume and 2011 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, **OR PATHOGEN**.

(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 quarantine area;

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

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

(d) (1) The Secretary shall establish procedures to allow a landowner, 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] **PACKING** 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, **OR PATHOGEN**.

(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.

10–601.

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

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

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

10–602.

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

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

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

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

10–603.

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

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

10-607.

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

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

10-608.

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

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

Approved by the Governor, April 10, 2012.