

S.265

Introduced by Senators Pollina, Rodgers, Benning, Collamore and Pearson

Referred to Committee on

Date:

Subject: Agriculture; commercial feed; farming; food residuals; poultry

Statement of purpose of bill as introduced: This bill proposes to require the Agency of Agriculture, Food and Markets to regulate compost foraging as farming. The bill would amend the definition of “farming” under Act 250 and the Required Agricultural Practices to include compost foraging. In addition, the bill would exempt food residuals imported onto a farm for use for compost foraging by poultry from the requirements to register as a commercial feed.

An act relating to the use of food residuals for farming

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

Sec. 1. 6 V.S.A. § 323 is amended to read:

§ 323. DEFINITIONS

~~When~~ As used in this chapter:

* * *

(2) “Commercial feed” means all materials except whole seeds unmixed or physically altered entire unmixed seeds, when not adulterated within the meaning of subsection 327(a) of this title, which are distributed for use as feed

1 or for mixing in feed. The Secretary by regulation may exempt from this
2 definition, or from specific provisions of this chapter, commodities such as
3 hay, straw, stover, silage, cobs, husks, hulls, and individual chemical
4 compounds or substances when such commodities, compounds, or substances
5 are not intermixed or mixed with other materials, and are not adulterated
6 within the meaning of subsection 327(a) of this title.

7 (3) "Customer-formula feed" means commercial feed that consists of a
8 mixture of commercial feeds or feed ingredients each batch of which is
9 manufactured according to the specific instructions of the final purchaser.

10 (4) "Distribute" means to offer for sale, sell, exchange, or barter
11 commercial feed or to supply, furnish, or otherwise provide commercial feed.

12 (5) "Distributor" means any person who distributes commercial feeds.

13 * * *

14 (7) "Feed ingredient" means each of the constituent materials making up
15 a commercial feed.

16 (8) "Label" means a display of written, printed, or graphic matter upon
17 or affixed to the container in which a commercial feed is distributed, or on the
18 invoice or delivery slip with which a commercial feed is distributed.

19 (9) "Labeling" means all labels and other written, printed, or graphic
20 matter upon a commercial feed or any of its containers, or the wrapper

1 accompanying the commercial feed, or advertisements, brochures, posters, and
2 television and radio announcements used in promoting the sale of the feed.

3 (10) "Manufacture" means to grind, mix, or blend, or further process a
4 commercial feed for distribution.

5 * * *

6 (21) "Compost foraging" means a system or practice that incorporates
7 source separated food residuals, manure, other farm residuals, high carbon
8 bulking agents, other forest materials, and other organics into a blend sufficient
9 to support composting activity that is provided for poultry to forage on.

10 (22) "Food residuals" has the same meaning as in 10 V.S.A. § 6602.

11 (23) "Poultry" means all domesticated birds of all ages that may be used
12 as human food or that produce eggs that may be used as human food and shall
13 include chickens, turkeys, geese, pheasant, Chukar partridge, and Coturnix
14 quail.

15 Sec. 2. 6 V.S.A. § 324 is amended to read:

16 § 324. REGISTRATION AND FEES

17 (a) ~~No~~ Except as provided under subsection (f) of this section, a person
18 shall not manufacture a commercial feed in this State unless that person has
19 first filed with the Vermont Agency of Agriculture, Food and Markets, in a
20 form and manner to be prescribed by rules by the Secretary:

21 (1) the name of the manufacturer;

- 1 (2) the manufacturer's place of business;
- 2 (3) the location of each manufacturing facility; and
- 3 (4) any other information which the Secretary considers to be necessary.

4 (b) A person shall not distribute in this State a commercial feed that has not
5 been registered pursuant to the provisions of this chapter. Application shall be
6 in a form and manner to be prescribed by rule of the Secretary. The
7 application for registration of a commercial feed shall be accompanied by a
8 registration fee of \$105.00 per product. The registration fees, along with any
9 surcharges collected under subsection (c) of this section, shall be deposited in
10 the special fund created by subsection 364(e) of this title. Funds deposited in
11 this account shall be restricted to implementing and administering the
12 provisions of this title and any other provisions of the law relating to fertilizer,
13 lime, or seeds. If the Secretary so requests, the application for registration
14 shall be accompanied by a label or other printed matter describing the product.

15 (c) No person shall distribute in this State any feed required to be registered
16 under this chapter upon which the Secretary has placed a withdrawal from
17 distribution order because of nonregistration. A surcharge of \$10.00, in
18 addition to the registration fee required by subsection (b) of this section, shall
19 accompany the application for registration of each product upon which a
20 withdrawal from distribution order has been placed for reason of

1 nonregistration, and must be received before removal of the withdrawal from
2 distribution order.

3 (d) A person who generates and distributes food residuals for use for
4 compost foraging by poultry is not required to register the food residuals as a
5 commercial feed under this section provided that the food residuals are
6 distributed to a farm subject to the Required Agricultural Practices.

7 Sec. 3. 6 V.S.A. § 325 is amended to read:

8 § 325. LABELING

9 (a) A commercial feed, except for a customer-formula feed or food
10 residuals distributed to a farm under subsection 324(d) for compost foraging by
11 poultry, shall be accompanied by a label bearing the following information:

12 (1) the net weight;

13 (2) the product name and the brand name, if any, under which the
14 commercial feed is distributed;

15 (3) the guaranteed analysis as required by rule in section 329 of this
16 title;

17 (4) the common, usual name or collective term of each ingredient used
18 in the manufacture of the commercial feed;

19 (5) the name and principal mailing address of the manufacturer or the
20 person responsible for distributing the commercial feed;

1 (6) adequate directions for use for all commercial feeds containing drugs
2 and for such other feeds as the Secretary may require by rule as necessary for
3 their safe and effective use; and

4 (7) precautionary statements required to assure the safe and effective use
5 of the commercial feed.

6 (b) Customer-formula feed shall be accompanied by a label, invoice,
7 delivery slip, or other shipping document, bearing the following information:

8 (1) name and address of the manufacturer;

9 (2) name and address of the purchaser;

10 (3) date of delivery;

11 (4) the name of each commercial feed and each other ingredient used in
12 the mixture;

13 (5) adequate directions for use for all customer-formula feeds containing
14 drugs and for such other feeds as the Secretary may require by rule to assure
15 their safe and effective use;

16 (6) the direction for use and precautionary statements;

17 (7) when a drug-containing product is used:

18 (A) the purpose of the medication or a claim statement; and

19 (B) the established name of each active drug ingredient and the level
20 of each drug used in the final mixture; and

(c) For purposes of labeling customer-formula feeds, the guaranteed analysis is not required when:

(2) the manufacturer uses a guaranteed analysis provided by the final purchaser as part of the specific instructions for blending a customer-formula feed.

§ 6001. DEFINITIONS

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- 1 (A) the cultivation or other use of land for growing food, fiber,
2 Christmas trees, maple sap, or horticultural and orchard crops; or
- 3 (B) the raising, feeding, or management of livestock, poultry, fish, or
4 bees; or
- 5 (C) the operation of greenhouses; or
- 6 (D) the production of maple syrup; or
- 7 (E) the on-site storage, preparation, and sale of agricultural products
8 principally produced on the farm; or
- 9 (F) the on-site storage, preparation, production, and sale of fuel or
10 power from agricultural products or wastes principally produced on the farm;
11 or
- 12 (G) the raising, feeding, or management of four or more equines
13 owned or boarded by the farmer, including training, showing, and providing
14 instruction and lessons in riding, training, and the management of equines; or
- 15 (H) the practice of compost foraging, including the importation of
16 food residuals by a farm for use for compost foraging by poultry.

17 * * *

- 18 (38) “Compost foraging” means a system or practice that incorporates
19 source separated food residuals, manure, other farm residuals, high carbon
20 bulking agents, other forest materials, and other organics into a blend sufficient
21 to support composting activity that is provided for poultry to forage on.

(40) “Food residuals” has the same meaning as in section 6602 of this title.

Sec. 5. Section 2 of the Agency of Agriculture, Food and Markets,
Vermont Required Agricultural Practices Rule for the Agricultural
Nonpoint Source Pollution Control Program is amended to read:

Section 2. Definitions

* * *

2.16 Farming means:

- (a) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural, viticultural, and orchard crops; or
- (b) the raising, feeding, or management of livestock, poultry, fish, or bees; or
- (c) the operation of greenhouses; or
- (d) the production of maple syrup; or
- (e) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

1 (f) the on-site storage, preparation, production, and sale of fuel or power
2 from agricultural products or wastes principally produced on the farm; or

3 (g) the raising, feeding, or management of four or more equines owned or
4 boarded by the farmer, including training, showing, and providing instruction
5 and lessons in riding, training, and the management of equines; or

6 (h) the practice of compost foraging, including the importation of food
7 residuals by a farm for use for compost foraging by poultry.

8 * * *

9 2.44 “Compost foraging” means a system or practice that incorporates
10 source separated food residuals, manure, other farm residuals, high carbon
11 bulking agents, other forest materials, and other organics into a blend sufficient
12 to support composting activity that is provided for poultry to forage on.

13 2.45 “Food residual” means source separated and uncontaminated material
14 that is derived from processing or discarding of food and that is recyclable, in a
15 manner consistent with 10 V.S.A. § 6605k. Food residual may include
16 preconsumer and postconsumer food scraps. “Food residual” does not mean
17 meat and meat-related products when the food residuals are composted by a
18 resident on site.

19 Sec. 6. 6 V.S.A. chapter 218 is added to read:

20 CHAPTER 218. AGRICULTURAL RESIDUALS MANAGEMENT

21 § 5131. PURPOSE

1 The purpose of this chapter is to establish a program for the management of
2 food residuals or food processing residuals imported by or managed on a farm
3 in Vermont.

4 § 5132. DEFINITIONS

5 As used in this chapter:

6 (1) “Agency” means the Agency of Agriculture, Food and Markets.

7 (2) “Compost” means a stable humus-like material produced by the
8 controlled biological decomposition of organic matter through active
9 management, but shall not mean sewage, septage, or materials derived from
10 sewage or septage.

11 (3) “Compost foraging” means a system or practice that incorporates
12 source separated food residuals, manure, other farm residuals, high carbon
13 bulking agents, other forest materials, and other organics into a blend sufficient
14 to support composting activity that is provided for poultry to forage on.

15 (4) “Farm” means a parcel or parcels of land owned, leased, or managed
16 by a person and devoted primarily to farming that meets the threshold criteria
17 for regulation under the Required Agricultural Practices.

18 (5) “Farming” has the same meaning as in 10 V.S.A. § 6001(22).

19 (6) “Food processing residuals” mean the remaining organic material
20 from a food processing plant and may include whey and other dairy, cheese
21 making, and ice cream residuals or residuals from any food manufacturing

1 process excluding livestock or poultry slaughtering and rendering operations.

2 “Food processing residuals” do not include food residuals from markets,
3 groceries, or restaurants.

4 (7) “Food residuals” mean source separated and uncontaminated
5 material that is derived from processing or discarding of food and that is
6 recyclable or compostable. “Food residuals” may include preconsumer and
7 postconsumer food scraps. “Food residuals” include meat and meat-related
8 products when the disposition of the products is managed on a farm.

9 (8) “Secretary” means the Secretary of Agriculture, Food and Markets.

10 (9) “Source separation” has the same meaning as in 10 V.S.A. § 6602.

11 § 5133. FOOD RESIDUALS; RULEMAKING

12 (a) The Secretary shall regulate the importation of food residuals or food
13 processing residuals onto a farm for compost foraging by poultry.

14 (b) The importation of food residuals or food processing residuals onto a
15 farm for compost foraging by poultry shall not require a certification or other
16 approval from the Agency of Natural Resources under 10 V.S.A. chapter 159.

17 (c) The Secretary shall adopt by rule requirements for the management of
18 food residuals and food processing residuals on a farm. The Secretary may, in
19 his or her discretion, adopt the rules required by this section as part of the
20 Required Agricultural Practices.

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(52) “Poultry” has the same meaning as in 6 V.S.A. § 323.

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

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§ 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

1 (a) Notwithstanding sections 6605, 6605f, and 6611 of this title, no person
2 may construct, substantially alter, or operate any categorical solid waste
3 facility without first obtaining a certificate from the Secretary. Certificates
4 shall be valid for a period not to exceed 10 years.

5 * * *

6 (e) This section shall not apply to the storage, treatment, or disposal of:

7 (1) Municipal solid waste.

8 (2) Sludge.

9 (3) Septage.

10 (4) Mineral processing waste. For purposes of this section, mineral
11 processing waste means solid waste from an industrial or manufacturing
12 facility that processes materials from a mining activity and where chemicals, as
13 defined by the Secretary by rule, are intentionally added as a part of that
14 processing.

15 (5) Food residuals imported onto a farm for compost foraging by
16 poultry.

17 Sec. 10. 10 V.S.A. § 6605h is amended to read:

18 § 6605h. COMPOSTING REGISTRATION

19 Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary
20 may, by rule, authorize a person engaged in the production or management of
21 compost at a small scale composting facility to register with the Secretary

1 instead of obtaining a facility certification under section 6605 or 6605c of this
2 title. This section shall not apply to a farm importing food residuals for
3 compost foraging by poultry.

4 Sec. 11. 10 V.S.A. § 6605j is amended to read:

5 § 6605j. ACCEPTED COMPOSTING PRACTICES

6 (a) The Secretary, in consultation with the Secretary of Agriculture, Food
7 and Markets, shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and shall
8 implement and enforce accepted composting practices for the management of
9 composting in the State. These accepted composting practices shall address:

10 (1) standards for the construction, alteration, or operation of a
11 composting facility;

12 (2) standards for facility operation, including acceptable quantities of
13 product or inputs, vector management, odors, noise, traffic, litter control,
14 contaminant management, operator training and qualifications, recordkeeping,
15 and reporting;

16 (3) standards for siting of composting facilities, including siting and
17 operation of compost storage areas, compost bagging areas, and roads and
18 parking areas;

19 (4) standards for the composting process, including rotation,
20 management of compost piles, compost pile size, and monitoring of compost
21 operations;

1 (5) standards for management of runoff from compost facilities,
2 including liquids management from the feedstock area, active composting
3 areas, curing area, and compost storage area; the use of swales or stormwater
4 management around or within a compost facility; vegetative buffer
5 requirements; and run-off management from tipping areas;

6 (6) specified areas of the State unsuitable for the siting of commercial
7 composting that utilizes post-consumer food residuals or animal mortalities,
8 such as designated downtowns, village centers, village growth areas, or areas
9 of existing residential density; and

10 (7) definitions of “small-scale composting facility,” “medium-scale
11 composting facility,” and “de minimis composting exempt from regulation.”

12 (b) A person operating a small scale composting facility ~~or operating a~~
13 ~~composting facility on a farm~~ who follows the accepted composting practices
14 shall not be required to obtain a discharge permit under section 1263 or 1264
15 of this title, a solid waste facility certification under chapter 159 of this title, or
16 an air emissions permit under chapter 23 of this title unless a permit is required
17 by federal law or the Secretary of Natural Resources determines that a permit
18 is necessary to protect public health or the environment.

19 (c) ~~The Secretary of Natural Resources shall coordinate with the Secretary~~
20 ~~of Agriculture, Food and Markets in implementing and enforcing the accepted~~
21 ~~composting practices. The Secretary of Agriculture, Food and Markets and the~~

1 ~~Secretary of Natural Resources may, after opportunity for public review and~~
2 ~~comment, develop a memorandum of understanding for implementation and~~
3 ~~enforcement of the accepted composting practices. [Repealed.]~~

4 (d) The Secretary shall not regulate under this section the importation of
5 food residuals onto a farm for compost foraging.

6 Sec. 12. 10 V.S.A. § 6605k(b)(2) is amended to read:

7 (2) arrange for the transfer of food residuals to a charitable food rescue
8 organization, farm, or other location that manages food residuals in a manner
9 consistent with the priority uses established under subdivisions (a)(2)-(5) of
10 this section or shall manage food residuals on site.

11 Sec. 13. 10 V.S.A. § 6605k(d) is added to read:

12 (d) A person conducting compost foraging on a farm shall be deemed to be
13 diverting food residuals for agricultural use, including consumption by
14 animals, consistent with subdivision (a)(3) of this section.

15 Sec. 14. APPLICATION OF SOLID WASTE MANAGEMENT RULE

16 Sections 6-1101 through 6-1110 of the Agency of Natural Resources'
17 Vermont Solid Waste Management Rules shall not apply to the importation of
18 food residuals onto a farm for compost foraging by poultry.

19 Sec. 15. EFFECTIVE DATE

20 This act shall take effect on July 1, 2020.