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SENATE BILL NO. 1195

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 26, 2017)

(Patron Prior to Substitute—Senator Stuart)

A BILL to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 51.1, consisting of sections numbered 3.2-5146 through 3.2-5152, relating to produce safety; civil penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 51.1, consisting of sections numbered 3.2-5146 through 3.2-5152, as follows:

CHAPTER 51.1.

PRODUCE SAFETY.

§ 3.2-5146. *Definitions.*

As used in this chapter, unless the context requires a different meaning:

"Covered produce" refers to the harvestable or harvested part of the crop and means produce that is subject to the requirements of 21 C.F.R. Part 112, as provided in 21 C.F.R. § 112.1 and 21 C.F.R. § 112.2.

"Farm" means an operation subject to the requirements of 21 C.F.R. Part 112.

§ 3.2-5147. *Regulations.*

The Board may adopt, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regulations necessary or convenient to carry out the purposes of this chapter.

§ 3.2-5148. *Commissioner to have access to certain farms.*

The Commissioner shall have free access at all reasonable hours to any farm for the purpose of (i) inspecting such farm to determine if any provision of this chapter or 21 C.F.R. Part 112 is being violated and (ii) securing samples or specimens to determine if any provision of this chapter or 21 C.F.R. Part 112 is being violated. The Commissioner shall make or cause to be made examinations of 21 samples or specimens secured pursuant to this section to determine whether any provision of this chapter or 21 C.F.R. Part 112 is being violated.

§ 3.2-5149. *Authority to seize covered produce; analysis; disposition of remainder.*

The Commissioner is authorized at all times to seize, take possession of, condemn, destroy, or require the destruction of any covered produce on a farm that is being grown, kept, or exposed for sale or held in possession or under the control of any person and that the Commissioner believes to be in violation of any provision of 21 C.F.R. Part 112, this chapter, or regulations of the Board adopted pursuant to § 3.2-5147.

§ 3.2-5150. *Adulterated produce.*

No farm shall violate any provision of 21 C.F.R. Part 112 or any provision of a regulation of the Board adopted pursuant to § 3.2-5147.

§ 3.2-5151. *Impeding Commissioner; penalty.*

No person shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the Commissioner, an inspector, or any other person in the performance of his duty in connection with this chapter.

§ 3.2-5152. *Civil penalty.*

Any person who violates any provision of this chapter or regulation of the Board adopted pursuant to § 3.2-5147 is subject to a civil penalty in an amount not to exceed \$1,000 per violation. In determining the amount of any civil penalty, the Board shall give due consideration to (i) the history of the person's previous violations, (ii) the seriousness of the violation, and (iii) the demonstrated good faith of the person charged in attempting to achieve compliance with this chapter after being notified of the violation. Such penalty shall be collected by the Commissioner and the proceeds shall be deposited into the Stormwater Local Assistance Fund established in § 62.1-44.15:29.1.

2. That Chapter 51.1 (§ 3.2-5146 et seq.) of Title 3.2 of the Code of Virginia, as created by this act, shall expire upon the effective date of the repeal of 21 C.F.R. Part 112 or on July 1, 2022, whichever occurs sooner.

3. That any exemption to the requirements of 21 C.F.R. Part 112 as established in 21 C.F.R. Part 112 also shall apply to Chapter 51.1 (§ 3.2-5146 et seq.) of Title 3.2 of the Code of Virginia, as created by this act.

4. That Chapter 51.1 (§ 3.2-5146 et seq.) of Title 3.2 of the Code of Virginia, as created by this act, shall expire if the federal funds required to implement the provisions of federal law embodied in this act are not provided or cease to be provided.