



SPONSOR: Rep. Carson & Sen. Ennis
Reps. Briggs King, Gray; Sens. Hocker, Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 471

AN ACT TO AMEND TITLE 3 AND TITLE 29 OF THE DELAWARE CODE RELATING TO CONTROL OF DISEASE.

1 WHEREAS, an outbreak of disease among animal species can cause disease in humans or disruptions to the food
2 supply; and

3 WHEREAS, the Department of Agriculture has the responsibility to detect, prevent, suppress, control, or eradicate
4 an outbreak of disease among animal species; and

5 WHEREAS, to carry out its duties, the Department of Agriculture must receive, produce, compose, draft, or
6 otherwise compile or collect certain information, the disclosure of which, if copied or inspected, could jeopardize the
7 function or security of an agricultural operation or reveal vulnerabilities that may increase the risk of bioterrorism, threaten
8 the food supply, or endanger the life or physical safety of an individual or animal species.

9 NOW, THEREFORE:

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

11 Section 1. Amend Chapter 1, Title 3 of the Delaware Code by making deletions as shown by strike through and
12 insertions as shown by underline as follows:

13 § 106. Information regarding the control of disease

14 (a) Records owned, made, used, retained, received, produced, composed, drafted, or otherwise compiled or
15 collected by the Department of Agriculture the disclosure of which could jeopardize the security of an agricultural
16 operation, threaten the food supply, endanger the life or physical safety of an individual or animal species, or facilitate the
17 planning of bioterrorism, are not a public record under the Freedom of Information Act, Chapter 100 of Title 29, including
18 any of the following:

19 (1) Any records which disclose the identity or geospatial location of an agricultural operation, producer,
20 owner, or land.

21 (2) Any records in the possession of the State Veterinarian or Deputy State Veterinarian, including
22 information from out of state or Federal persons assisting the Department.

23 (b) "Agricultural operation" means as defined in Chapter 81 of Title 10.

24 Section 2. Amend Chapter 100, Title 29 of the Delaware Code by making deletions as shown by strike through and
25 insertions as shown by underline as follows:

26 § 10002. Definitions.

27 (o) “Public record” is information of any kind, owned, made, used, retained, received, produced, composed,
28 drafted or otherwise compiled or collected, by any public body, relating in any way to public business, or in any way of
29 public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such
30 information is stored, recorded or reproduced. For purposes of this chapter, the following records shall not be deemed
31 public:

32 (20) Information regarding the control of disease as defined in §106 of Title 3.

SYNOPSIS

The Department of Agriculture recently responded to an outbreak of highly pathogenic avian influenza impacting Delaware poultry farms in coordination with agencies and officials from Delaware, Maryland, and USDA APHIS, as well as individual farmers and independent contractors. In connection with that response, the Department received or drafted certain information regarding persons, animals, land, and emergency response plans that should be confidential. This Act will help to protect the safety and security of individuals, agricultural operations, and animals and avoid any vulnerabilities that disclosure poses on the control and eradication of disease among animal species. This Act also revises Title 29 to identify information regarding the control of disease as defined in § 106 of Title 3 as not being a public record under the Freedom of Information Act.