

SENATE BILL NO. 147

BY SENATORS THOMPSON, LONG, NEVERS, RISER AND WALSWORTH

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AN ACT

To amend and reenact R.S. 3:3402(4), 3403(C), 3405(B)(2), the introductory paragraph of 3407(A), 3410(D), 3410.2(D)(4), the introductory paragraph of 3410.2(F), 3411(B), 3414.3(L), 3414.4(B), 3419(D) and 3422(D) and to repeal Subpart B of Part V of Chapter 6 of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:691 through 695, Subpart C of Part V of Chapter 6 of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:697 through 699, 3405(B)(1), 3409(I), 3414.3(E) and 3415(B), relative to agricultural commodities; to provide for changes in the Agricultural Commodity Dealer and Warehouse Law; to provide relative to seizure of facilities; to repeal grain dealer license exams; to provide relative to moisture measuring devices and to repeal obsolete provisions related thereto; to repeal certain certification requirements related to grain sampling; to repeal certain licensure requirements concerning weighmasters; to repeal certain policies for sampling and grading grain; to repeal provision requiring design approval for scale tickets; to provide for technical corrections; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:3402(4), 3403(C), 3405(B)(2), the introductory paragraph of 3407(A), 3410(D), 3410.2(D)(4), the introductory paragraph of 3410.2(F), 3411(B), 3414.3(L), 3414.4(B), 3419(D) and 3422(D) are hereby amended and reenacted to read as follows:

§3402. Definitions

As used in this Chapter, the following terms shall have the meanings ascribed below:

* * *

1 (4) "Commissioner" means the Louisiana commissioner of agriculture **and**
2 **forestry**.

3 * * *

4 §3403. Louisiana Agricultural Commodities Commission; creation; membership;
5 terms; panels of nominees; filling of vacancies; oaths of office; per
6 diem; quorum; domicile; meetings; successor to State Warehouse
7 Commission

8 * * *

9 C. The tenth member shall be the commissioner of agriculture **and forestry**,
10 who shall serve ex officio, but with all of the powers, rights, duties, and privileges
11 as appointed members, including the right to vote on all matters before the
12 commission.

13 * * *

14 §3405. Powers and duties of the commission

15 * * *

16 B. The commission may:

17 * * *

18 (2) Establish reasonable guidelines for and require the submission of
19 inventory reports ~~and position papers~~.

20 * * *

21 §3407. Seizure by commission

22 A. The commissioner, with the prior approval of the commission, ~~shall~~ **may**
23 institute legal proceedings by petition in the district court for the district in which the
24 licensee is located for an order authorizing the commissioner to effect a seizure of
25 the facilities of the licensee and to act as receiver thereof whenever any of the
26 following conditions occur:

27 * * *

28 §3410. Bond required as a condition of warehouse license, time of filing; amount
29 of bond, minimum and maximum; approval; notice of cancellation;
30 changes in licensed capacity; insurance; alternate security; failure to

1 maintain bond and insurance in full force and effect

2 * * *

3 D. In any case, the net amount of the bond shall **not** be ~~not~~ less than
4 twenty-five thousand dollars and not more than five hundred thousand dollars.

5 * * *

6 §3410.2. Grain and Cotton Indemnity Fund; creation; assessment; rules and
7 regulations; suspension of assessment; eligibility for reimbursement;
8 availability of money; prorated claims; reimbursement for
9 administrative expenses; failure to pay; subrogation

10 * * *

11 D. The commission shall adopt rules and regulations, in accordance with the
12 Administrative Procedure Act, necessary for the efficient administration of the Grain
13 and Cotton Indemnity Fund. Such rules shall include:

14 * * *

15 (4) ~~Establish~~ **The establishment of** civil penalties for violations of this
16 Section.

17 * * *

18 F. A ~~person~~ **producer** shall be eligible to receive indemnity payments from
19 the Grain and Cotton Indemnity Fund if:

20 * * *

21 §3411. License to buy or sell agricultural commodities; posting requirements for
22 grain dealers; duration of license; bond required as a condition of a
23 grain dealer license, time of filing, amount of bond, notice of
24 cancellation, alternate security; failure to maintain bond and stock
25 insurance

26 * * *

27 B. Each applicant for a grain dealer license shall file the application
28 described in R.S. 3:3408 and ~~either~~ demonstrate its competency to engage in the
29 business of buying ~~and/or~~ **or** selling agricultural commodities ~~or satisfactory~~
30 ~~complete any examination that may be required by the commission~~ prior to licensure.

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§3414.3. Grain sampling and grading

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~~L. No grain dealer shall sell grain in bulk within this state for livestock and poultry feed without a statement of the specified grade. The grades shall be determined as provided in this Section.~~ The department shall inspect, classify, and grade all grain subject to this Subsection. The department may charge a fee for inspecting, classifying, and grading grain. The fee shall be fixed by the commission by rule and shall be based on the actual cost of providing the service. The provisions of this Subsection shall not apply to grain sold for export nor to inbound grain intended for export shipment.

§3414.4. Prompt payment for cotton; suit on bond; private action; attorney fees

* * *

B. Any producer from whom cotton was purchased or contracted to be purchased and to whom money is due for cotton sold for future delivery as a result of the nonperformance of the cotton merchant or cotton agent shall have recourse on the bond or alternate security required to be furnished by this Chapter to the extent of the loss suffered by the ~~farmer~~ **producer**, but such recovery against the bonding company or alternate security shall not exceed the amount of the bond or the alternate security. Limitation of liability as to the bonding company or alternate security shall not restrict suits against the cotton merchant or cotton agent for losses incurred in excess of the amount of the bond or alternate security. Suit may be brought in any parish where the crop or any part thereof was grown or any other venue authorized by law. One or more recoveries upon such bond or alternate security shall not vitiate same, but no recovery nor the aggregate of multiple recoveries upon such bond or alternate security shall ever exceed the full amount thereof. Upon suits being filed in excess of the amount of the bond or alternate security, the commission may require a new bond or other security in an amount sufficient to secure the aggregate amount of such suits, and if such additional security is not given within thirty days of demand therefor, the commission may

1 cancel the license of the cotton merchant. In the case of the insolvency of a cotton
2 merchant, any cotton producer or cotton landowner having contracts for future
3 delivery shall be entitled to participate in the bond or alternate security funds to the
4 extent of his pro rata losses under his contract.

5 * * *

6 §3419. Records required

7 * * *

8 D. Each warehouse, cotton merchant, and grain dealer shall permit any
9 officer or authorized representative of the commission to enter all locations listed on
10 the application of such warehouse, cotton merchant, or **grain** dealer and inspect,
11 examine, ~~and~~ or audit all contents, facilities, equipment, records, books, and accounts
12 relating thereto. Such inspection, examination, ~~and~~ or audit may be made on any
13 business day, during normal working hours. The warehouse, cotton merchant, or
14 grain dealer shall provide the necessary assistance required for any inspection,
15 examination, ~~and~~ or audit made in accordance with this Chapter or the rules and
16 regulations adopted pursuant hereto.

17 * * *

18 §3422. Commission authorized to charge regulatory fees

19 * * *

20 D. Every moisture measuring device used or held for use at any
21 commercial facility which receives, holds, dries, stores, mills, processes or
22 otherwise deals in agricultural commodities in this state, when such use or
23 intended use is for the purpose of determining discounts or other price
24 variances in connection with the purchase or sale of such commodity, shall be
25 registered with the Louisiana Department of Agriculture and Forestry. The
26 commission shall register and inspect all moisture meters or other devices used to
27 measure moisture in agricultural commodities on an annual basis. The commission
28 may establish by rule and regulation a fee for the registration and inspection of
29 moisture meters or other such devices not to exceed twenty dollars for registration
30 and forty dollars for inspection.

1 Section 2. Subpart B of Part V of Chapter 6 of Title 3 of the Louisiana Revised
 2 Statutes of 1950, comprised of R.S. 3:691 through 695, Subpart C of Part V of Chapter 6 of
 3 Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:697 through 699,
 4 3405(B)(1), 3409(I), 3414.3(E) and 3415(B) are hereby repealed in their entirety.

5 Section 3. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____