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Chapter No. 407
13/HR40/R1672
JAB / CST

HOUSE BILL NO. 751

Originated in House  Clerk

HOUSE BILL NO. 751

AN ACT TO AMEND SECTION 69-3-6, MISSISSIPPI CODE OF 1972, TO REMOVE THE NOTARIZATION REQUIREMENT FOR QUARTERLY REPORTS TO BE PROVIDED TO THE DEPARTMENT OF AGRICULTURE AND COMMERCE ON THE TOTAL POUNDAGE OF ALL SEED SALES DURING THE QUARTER; TO AMEND SECTION 69-3-25, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTY IMPOSED FOR VIOLATIONS OF THE SEED LAW; TO AMEND SECTION 69-3-29, MISSISSIPPI CODE OF 1972, TO REVISE THE ADMINISTRATIVE HEARING PROCEDURES FOR VIOLATIONS OF THE LAW TO ADHERE TO THE PROVISIONS FOR ADMINISTRATIVE HEARINGS CONDUCTED BY THE BUREAU OF PLANT INDUSTRY; TO AMEND SECTION 69-25-51, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-3-6, Mississippi Code of 1972, is amended as follows:

69-3-6. (1) The department may establish seed inspection fees, prescribe and furnish forms, and require the filing of reports necessary for the payment of the inspection fees. The department may inspect the record of any seedsman during the normal hours of business operation as it deems necessary.

(2) All fees collected under this section shall be deposited into a special fund in the State Treasury. The department may

expend the monies in the fund by an annual appropriation approved by the Legislature for the support of the Seed Division of the Bureau of Plant Industry.

(3) Every seedsman who sells or distributes seed for sale, whether in bulk or in containers, within or into Mississippi for planting purposes, shall be assessed a seed inspection fee as required by the department.

(4) Every seedsman must:

(a) Pay an inspection fee on the total number of pounds of seed sold or otherwise distributed for sale within or into the state. Payment of the seed inspection fees shall be the responsibility of the seedsman initiating the first sale of seed within or into the state;

(b) Maintain records, as required by the department, that accurately reflect the total pounds of seed subject to the fees that are handled, sold or offered, or distributed for sale;

(c) File quarterly * * * reports on forms provided or approved by the department, covering the total pounds of all sales of seed subject to the fee and sold during the preceding quarter. The reports and fees due shall be filed with the department no later than thirty (30) days following the end of each calendar quarter.

(5) A seedsman who does not file the quarterly report by the due date shall pay a penalty fee as provided by the regulations of the department. The penalty fee shall be waived if the seedsman

obtains prior written approval from the department for a late filing and complies with the late filing requirements.

(6) If a seedsman does not comply with all the requirements of this section, the commissioner may suspend the seedsman's permit until the seedsman is in compliance.

SECTION 2. Section 69-3-25, Mississippi Code of 1972, is amended as follows:

69-3-25. Any person who * * * violates any provision of this * * * article or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not * * * more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

SECTION 3. Section 69-3-29, Mississippi Code of 1972, is amended as follows:

69-3-29. * * *

(1) Whenever it has been alleged that any person or other entity has violated any of the provisions of this article, or any of the rules or regulations promulgated hereunder, the matter shall be conducted as an administrative proceeding under the terms and conditions of Sections 69-25-51 through 69-25-63, and where found culpable, such person or other entity shall be subject to the administrative and civil penalties provided therein.

(* * *2) The procedures described herein shall not apply to seed arbitration claims which are described in Sections * * *

69-3-20 through 69-3-22, as such claims shall be governed by the procedures set forth in * * * those statutes.

SECTION 4. Section 69-25-51, Mississippi Code of 1972, is amended as follows:

69-25-51. (1) When any administrative allegation or charge is made against a person for violating the rules and regulations of the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce or the laws under Sections 69-3-1 through 69-3-29, Sections 69-19-1 through 69-19-15, Sections 69-21-101 through 69-21-128, Sections 69-23-1 through 69-23-135, Sections 69-25-1 through 69-25-47 or Sections 69-25-101 through 69-25-109, Mississippi Code of 1972, the Director of the Bureau of Plant Industry, or his designee, shall act as the reviewing officer. The complaint must be in writing, signed by the person making the charge, and filed in the Office of the Bureau of Plant Industry. The department shall send a copy of the complaint and any supporting documents to the person accused along with a summons requiring the accused to respond to the allegations within thirty (30) days. The notification shall be accomplished by any of the methods provided for in Rule 4 of the Mississippi Rules of Civil Procedure or by certified mail. If the accused does not respond within the thirty-day period, he shall be considered to be in default. Upon receipt of the response and any supporting documents from the accused, the reviewing officer shall determine the merits of the complaint. The reviewing officer may meet

informally with the accused and discuss the alleged violation with him.

(2) If the reviewing officer determines that the complaint lacks merit, he may dismiss the complaint.

(3) If the reviewing officer determines that there is substantial evidence that a violation has occurred or if the accused admits to the truth of the allegations upon which the complaint is based, the reviewing officer may impose an appropriate penalty on the accused, which may be any or all of the following:

(a) Issue a warning letter.

(b) Suspend, modify, deny, cancel or revoke any license or permit granted by the department to the accused.

(c) Issue a stop sale order with regard to any pesticide, plant or other material regulated by the department that is mislabeled or otherwise not in compliance with applicable law or regulations.

(d) Require the accused to relabel any pesticide, plant or other material regulated by the department that is mislabeled.

(e) Seize any pesticide, plant or other material regulated by the department and sell, destroy or otherwise dispose of the material and apply the proceeds of the sale to the state's expenses and any fees or penalties levied under this article.

(f) Refuse to register, cancel or suspend the registration of a pesticide, plant or other material that is not in compliance with any applicable law or regulation.

(g) Levy a civil penalty in an amount not to exceed Five Thousand Dollars (\$5,000.00) for each violation.

In determining the amount of the penalty, the reviewing officer shall consider the appropriateness of the penalty for the particular violation, the effect of the penalty on the person's ability to continue in business and the gravity of the violation.

(4) If the accused requests a hearing with the department, in writing, within thirty (30) days from receipt of the decision of the reviewing officer, the commissioner shall appoint three (3) members of the advisory board to the Bureau of Plant Industry to act as a hearing committee and a hearing shall be scheduled. If the accused fails to request a hearing within the thirty-day period, the decision of the reviewing officer is final.

SECTION 5. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 7, 2013



SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 11, 2013



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

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