

Regular Session, 2013

HOUSE BILL NO. 664

BY REPRESENTATIVE TERRY LANDRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AGRICULTURE/SWEET POTATO: Provides relative to the sweet potato industry

1 AN ACT

2 To amend and reenact R.S. 3:1731 through 1735 and 1736(A), (B), and (E) and to enact R.S.
3 3:1733.1, 1733.2, 1735.1, 1737, and the headings for Parts III and III-A of Chapter
4 12 of Title 3 of the Louisiana Revised Statutes of 1950, relative to the sweet potato
5 industry; to provide for sweet potato dealer's permits; to provide for the requirements
6 and applications for such permit; to provide for exceptions, denials, suspensions,
7 revocations, and probation of such permits; to provide for definitions; to provide for
8 shipment fees; to provide for rules and regulations; to provide for certificates of
9 inspection; to provide for the disposition of funds; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 3:1731 through 1735 and 1736(A), (B), and (E) are hereby amended
12 and reenacted and R.S. 3:1733.1, 1733.2, 1735.1, 1737, and the headings for Parts III and
13 III-A of Chapter 12 of Title 3 are hereby enacted to read as follows:

14 PART III. SWEET POTATO ~~DISEASES~~ DEALERS

15 §1731. ~~Certificate of inspection required for sweet potato shipments~~ Sweet potato
16 dealer's permit requirement; application; exception; denial, suspension,
17 revocation and probation of dealer's permit

18 ~~All sweet potatoes, vines, plants and slips, shipped or moved into, out of, or~~
19 ~~within the state, shall be accompanied by a certificate of inspection signed by the~~
20 ~~state entomologist.~~ A. All persons, including sweet potato growers and farmers,

1 commercially growing, selling or offering for sale sweet potatoes shall not grow,
2 move, clean, grade, pack or repack for sale, or process in any manner sweet potatoes
3 without a valid sweet potato dealer's permit.

4 B. Applicants for a sweet potato dealer's permit shall complete and file the
5 application required by the department, which shall set forth the following
6 conditions:

7 (1) A guarantee to reimburse any purchase price of sweet potatoes which are
8 confiscated because of sweet potato weevil infestation or unauthorized sale, offer for
9 sale, or movement.

10 (2) An agreement to permit, at the dealer's cost, the disposal or destruction
11 by the department or the return to point of origin of any sweet potatoes sold, offered
12 for sale, moved or moving without authorization, or infested with sweet potato
13 weevils.

14 (3) A signed agreement to comply with any and all sweet potato quarantine
15 regulations and any conditions specified in the agreement.

16 C. The provisions of this Section do not apply to retail grocers and other
17 retail outlets selling or offering for sale sweet potatoes possessing a valid certificate
18 permit and/or certificate permit tags indicating that the sweet potatoes have been
19 inspected, and that are sold or offered for sale directly to the consumer from a
20 permanent building at a permanent location.

21 D. A sweet potato dealer's permit may be suspended, revoked, or placed on
22 probation if the holder thereof fails to comply with the provisions of these
23 regulations or with the provisions of a signed compliance agreement with the
24 department, subject to a finding in support of such action in a properly conducted
25 adjudicatory hearing.

26 E. The department may refuse to renew a sweet potato dealer's permit to any
27 person or business applying for a sweet potato dealer's permit if the person or
28 business owes unpaid sweet potato fees, taxes, or civil penalties.

1 §1732. ~~Commissioner of agriculture and forestry to promulgate rules and~~
2 ~~regulations~~ Terms defined

3 ~~The commissioner of agriculture and forestry shall have full and plenary~~
4 ~~power to deal with sweet potato insect pests and diseases which may be prescribed,~~
5 ~~controlled, or eradicated; he shall have full power to promulgate and enforce the~~
6 ~~rules, ordinances and regulations and to do and perform such acts through agents or~~
7 ~~otherwise, as in his opinion may be necessary to control, eradicate, or prevent the~~
8 ~~introduction, spread, or dissemination of any and all contagious diseases and insect~~
9 ~~pests as far as may be possible and all such rules, ordinances, and regulations shall~~
10 ~~have the force of law.~~

11 The terms used in Parts III and III-A of Chapter 12 of this Title shall have the
12 following meanings:

13 (1) "Certificate permit" means a written document, stamp, or other form of
14 identification approved by the department, which authorizes the movement, sale,
15 offer for sale or storage of plants, plant products or parts thereof, or regulated
16 materials.

17 (2) "Certificate permit tag" means a tag which authorizes the movement,
18 sale, or offer for sale or storage of plants, plant products or parts thereof, or regulated
19 materials.

20 (3) "Commissioner" means the Commissioner of the Department of
21 Agriculture and Forestry.

22 (4) "Department" means the Department of Agriculture and Forestry.

23 (5) "Processing plants" means canning, freezing, and dehydrating facilities.

24 (6) "Sweet potato" means all plants, plant parts, and plant products in the
25 genus Ipomoea and any other plants, plant parts, or plant products that commonly are
26 referred to as sweet potato, that can harbor injurious pests or diseases affecting said
27 plants, plant parts, and plant products.

1 ~~(R.S. 3:1735) §1734. Fee based on shipments of potatoes or plants; Sweet Potato~~
2 ~~Pests and Diseases Fund; disposition of funds~~ Sale of sweet potatoes for
3 certain purposes prohibited

4 ~~A. For the purpose of carrying out and putting into effect the provisions of~~
5 ~~this Part, the commissioner of agriculture and forestry may charge a fee of not more~~
6 ~~than six cents per bushel on every bushel of potatoes moved or shipped within the~~
7 ~~state and a fee of not more than ten cents per thousand on all vines, plants, and slips.~~
8 ~~The fees shall be established by rule adopted in accordance with the Administrative~~
9 ~~Procedure Act.~~

10 ~~B. All assessments, fees, penalties, and other funds received under the~~
11 ~~provisions of this Part shall be disposed of in accordance with the following~~
12 ~~provisions:~~

13 ~~(1) All assessments, fees, penalties, and all other funds received under the~~
14 ~~provisions of this Part, subject to the exceptions contained in Article VII, Section 9~~
15 ~~of the Constitution of Louisiana, shall be deposited immediately upon receipt into~~
16 ~~the state treasury and shall be credited to the Bond Security and Redemption Fund.~~

17 ~~(2) Out of the funds remaining in the Bond Security and Redemption Fund~~
18 ~~after a sufficient amount is allocated from that fund to pay all obligations secured by~~
19 ~~the full faith and credit of the state, which become due and payable within any fiscal~~
20 ~~year, the treasurer, prior to placing the remaining funds in the state general fund,~~
21 ~~shall pay an amount equal to the total amount of funds paid into the state treasury~~
22 ~~under the provisions of this Part into a special fund which is hereby created in the~~
23 ~~state treasury and designated as the Sweet Potato Pests and Diseases Fund.~~

24 ~~(3) All unexpended and unencumbered monies in the fund at the end of each~~
25 ~~fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund~~
26 ~~in the same manner as monies in the state general fund. All interest earned on~~
27 ~~monies from the fund invested by the state treasurer shall be deposited in the fund.~~

28 ~~(4) Subject to appropriation, the monies in the fund shall be used for the~~
29 ~~following purposes:~~

1 ~~(a) To provide for the expenses of the program established by this Part, as~~
2 ~~determined by the commissioner of agriculture and forestry.~~

3 ~~(b) To fund any and all costs related to the carrying out of the powers and~~
4 ~~duties granted to the commissioner of agriculture and forestry under this Part to~~
5 ~~control sweet potato pests and diseases. In order to prevent the spread of sweet~~
6 ~~potato weevils, no person shall sell or provide raw sweet potatoes for the purpose of~~
7 ~~feeding, offering to feed, or depositing for food the sweet potatoes to wild game~~
8 ~~quadrupeds.~~

9 §1735. Sale of sweet potatoes for certain purposes prohibited

10 ~~(R.S. 3:1732) Commissioner of agriculture and forestry to promulgate Promulgation~~
11 ~~of rules and regulations~~

12 ~~In order to prevent the spread of sweet potato weevils, no person shall sell or~~
13 ~~provide raw sweet potatoes for the purpose of feeding, offering to feed, or depositing~~
14 ~~for food the sweet potatoes to wild game quadrupeds. The commissioner of~~
15 ~~agriculture and forestry shall have full and plenary power to deal with sweet potato~~
16 ~~pests and diseases which may be prescribed, controlled, or eradicated; he eradicated.~~
17 ~~He shall have full power to promulgate and enforce the rules, ordinances, and~~
18 ~~regulations and to do and perform such acts through agents or otherwise, as in his~~
19 ~~opinion may be necessary to control, eradicate, or prevent the introduction, spread,~~
20 ~~or dissemination of any and all contagious diseases and pests as far as may be~~
21 ~~possible and all such rules, ordinances, and regulations shall have the force of law.~~

22 ~~(R.S. 3:1733) §1735.1. Investigation to discover diseased or infested sweet potatoes~~
23 ~~or plants~~

24 The commissioner, his agents and employees, may enter any depot, express
25 office, storeroom, warehouse or premises for the purpose of inspecting any sweet
26 potatoes, vines, plants, and slips, therein or thought to be therein for the purpose of
27 ascertaining whether the sweet potatoes, vines, plants, and slips are infected with any
28 contagious or infectious diseases or pests which they may have reason to believe
29 have been or are being transported in violation of the provisions of this Part.

1 §1736. Penalty for violations

2 A. A violator of any provision of ~~this Part III or III-A of Chapter 12 of this~~
3 Title or of any rule or regulation adopted under the provisions of ~~this Part III or~~
4 III-A of Chapter 12 of this Title shall be subject to a civil penalty of not more than
5 five thousand dollars for each act of violation and for each day of violation. Each
6 day on which a violation occurs shall be a separate offense.

7 B. Penalties may be assessed only by a ruling of the commissioner ~~of the~~
8 ~~Department of Agriculture and Forestry~~ based upon an adjudicatory hearing held in
9 accordance with the provisions of the Administrative Procedure Act.

10 * * *

11 E. The commissioner may institute civil proceedings seeking injunctive
12 relief to restrain and prevent the violation of the provisions of ~~this Part III or III-A~~
13 of Chapter 12 of this Title, or of the rules and regulations adopted under the
14 provisions of ~~this Part Parts III and III-A of Chapter 12 of this Title~~ , in the district
15 court for the parish in which the violation occurred.

16 §1737. Fee based on shipments of potatoes or plants; Sweet Potato Pests and
17 Diseases Fund; disposition of funds

18 (~~R.S. 3:1734(B)~~) A. All assessments, fees, penalties, and other funds
19 received under the provisions of ~~this Part Parts III and III-A of Chapter 12 of this~~
20 Title shall be disposed of in accordance with the following provisions:

21 (1) All assessments, fees, penalties, and all other funds received under the
22 provisions of ~~this Part Parts III and III-A of Chapter 12 of this Title~~, subject to the
23 exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall
24 be deposited immediately upon receipt into the state treasury and shall be credited
25 to the Bond Security and Redemption Fund.

26 (2) Out of the funds remaining in the Bond Security and Redemption Fund
27 after a sufficient amount is allocated from that fund to pay all obligations secured by
28 the full faith and credit of the state, which become due and payable within any fiscal
29 year, the treasurer, prior to placing the remaining funds in the state general fund,

1 shall pay an amount equal to the total amount of funds paid into the state treasury
2 under the provisions of ~~this Part~~ Parts III and III-A of Chapter 12 of this Title into
3 a special fund which is hereby created in the state treasury and designated as the
4 Sweet Potato Pests and Diseases Fund.

5 (3) All unexpended and unencumbered monies in the fund at the end of each
6 fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund
7 in the same manner as monies in the state general fund. All interest earned on
8 monies from the fund invested by the state treasurer shall be deposited in the fund.

9 ~~(R.S. 3:1734(B)(4))~~ B. Subject to appropriation, the monies in the fund shall
10 be used for the following purposes:

11 (1) To provide for the expenses of the program established by ~~this Part~~ Parts
12 III and III-A of Chapter 12 of this Title, as determined by the commissioner of
13 ~~agriculture and forestry~~.

14 (2) To fund any and all costs related to the carrying out of the powers and
15 duties granted to the commissioner of ~~agriculture and forestry~~ under ~~this Part~~ Parts
16 III and III-A of Chapter 12 of this Title ~~to control sweet potato pests and diseases~~.

17 Section 2. This Act shall become effective upon signature by the governor or, if not
18 signed by the governor, upon expiration of the time for bills to become law without signature
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
21 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Terry Landry

HB No. 664

Abstract: Creates the sweet potato dealer's permit and revises provisions for the sweet potato industry relative to sweet potato pests and diseases.

Proposed law creates the sweet potato dealer's permit and requires any person, including sweet potato growers and farmers, who commercially grow, sell, or offer sweet potatoes for sale to possess a sweet potato dealer's permit.

Proposed law requires applicants for a sweet potato dealer's permit to complete and file an application as required by the La. Dept. of Agriculture and Forestry (department), which sets forth the following conditions:

- (1) A guarantee to reimburse the purchase price for any sweet potatoes confiscated due to sweet potato weevil infestation or unauthorized sale.
- (2) An agreement to permit, at the dealer's cost, the disposal by the department or return to the point of origin any sweet potatoes sold without authorization or infested with sweet potato weevils.
- (3) A signed agreement to comply with all sweet potato quarantine regulations and specified conditions.

Proposed law does not apply to retail grocers and other retail outlets selling sweet potatoes possessing a valid inspection certificate permit or permit tag, and that are sold directly to the consumer from a permanent location.

Proposed law provides for the suspension, revocation, or probation of a sweet potato dealer's permit if the permit holder fails to comply with the provisions of proposed law or with a signed compliance agreement with the department.

Proposed law allows the department to refuse the renewal of a sweet potato dealer's permit if the permit holder owes unpaid sweet potato fees, taxes, or civil penalties.

Proposed law provides for the definition of "Certificate Permit", "Certificate Permit Tag", "Commissioner", "Department", "Processing plants", and "Sweet potato".

Proposed law authorizes the commissioner of agriculture to adopt rules and regulations deemed necessary to enforce the provisions of proposed law.

Proposed law redesignates present law as follows:

From R.S. 3:1731 to R.S. 3:1733.2

From R.S. 3:1732 to R.S. 3:1735

From R.S. 3:1733 to R.S. 3:1735.1

From R.S. 3:1734(A) to R.S. 3:1733

From R.S. 3:1734(B) to R.S. 3:1737(A)

From R.S. 3:1734(B)(4) to R.S. 3:1737(B)

From R.S. 3:1735 to R.S. 3:1734

(Amends R.S. 3:1731-1735 and 1736(A), (B), and (E); Adds R.S. 3:1733.1, 1733.2, 1735.1, 1737, and the headings for Parts III and III-A of Ch. 12 of Title 3 of the L.R.S. of 1950)