

Regular Session, 2013

HOUSE BILL NO. 664

BY REPRESENTATIVE TERRY LANDRY AND SENATORS ALARIO, AMEDEE, APPEL, BROOME, BROWN, CORTEZ, CROWE, GALLOT, GUILLORY, MILLS, MORRELL, MURRAY, NEVERS, PEACOCK, PERRY, RISER, GARY SMITH, THOMPSON, AND WHITE

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

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 dealers permits; to provide for the requirements
6 and applications for such permits; 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 of the Louisiana Revised Statutes of 1950 are hereby enacted
14 to read as follows:

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

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

19 ~~All sweet potatoes, vines, plants and slips, shipped or moved into, out of, or~~
20 ~~within the state, shall be accompanied by a certificate of inspection signed by the~~

1 ~~state entomologist.~~ A. All persons, including sweet potato growers and farmers,
2 commercially growing, selling or offering for sale sweet potatoes shall not grow,
3 move, clean, grade, pack or repack for sale, or process in any manner sweet potatoes
4 without a valid sweet potato dealer's permit.

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

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

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

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

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

22 D. A sweet potato dealer's permit may be suspended, revoked, or placed on
23 probation if the holder thereof fails to comply with the provisions of Parts III and
24 Part III-A of Chapter 12 of this Title or with the provisions of a signed compliance
25 agreement with the department, subject to a finding in support of such action in a
26 properly conducted adjudicatory hearing.

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

1 ~~The fees shall be established by rule adopted in accordance with the Administrative~~
 2 ~~Procedure Act.~~

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

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

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

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

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

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

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

1 ~~§1735. Sale of sweet potatoes for certain purposes prohibited~~
 2 ~~(R.S. 3:1732) Commissioner of agriculture and forestry to promulgate~~ Promulgation
 3 of rules and regulations

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

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

17 The commissioner, his agents and employees, may enter any depot, express
 18 office, storeroom, warehouse or premises for the purpose of inspecting any sweet
 19 potatoes, vines, plants, and slips, therein or thought to be therein for the purpose of
 20 ascertaining whether the sweet potatoes, vines, plants, and slips are infected with any
 21 contagious or infectious diseases or pests ~~which that~~ they may have reason to believe
 22 have been or are being transported in violation of the provisions of this Part.

23 §1736. Penalty for violations

24 A. A violator of any provision of ~~this Part III or III-A of this Chapter~~ or of
 25 any rule or regulation adopted under the provisions of ~~this Part III or III-A of this~~
 26 Chapter shall be subject to a civil penalty of not more than five thousand dollars for
 27 each act of violation and for each day of violation. Each day on which a violation
 28 occurs shall be a separate offense.

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

4 * * *

5 E. The commissioner may institute civil proceedings seeking injunctive
6 relief to restrain and prevent the violation of the provisions of ~~this Part III or III-A~~
7 of this Chapter, or of the rules and regulations adopted under the provisions of ~~this~~
8 ~~Part Parts III and III-A of this Chapter~~ , in the district court for the parish in which
9 the violation occurred.

10 §1737. ~~Fee based on shipments of potatoes or plants;~~ Sweet Potato Pests and
11 Diseases Fund; disposition of funds

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

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

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

28 (3) All unexpended and unencumbered monies in the fund at the end of each
29 fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund

1 in the same manner as monies in the state general fund. All interest earned on
2 monies from the fund invested by the state treasurer shall be deposited in the fund.

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

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

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

11 Section 2. The Louisiana State Law Institute is hereby authorized and directed to
12 designate R.S. 3:1741 through 1748, as "Part III-B. Sweet Potato Promotion".

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____