
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Curry Lann.

DIGEST

SB 126 Original

2017 Regular Session

Thompson

Proposed law provides for the following definitions:

- (1) "Commissioner" means the La. commissioner of agriculture and forestry.
- (2) "Covered produce farm" means any farm engaged in the growing, harvesting, packing, or holding of produce for human consumption which is subject to the requirements of the FDA Food Safety Modernization Act.
- (3) "Department" means the La. Dept. of Agriculture and Forestry.
- (4) "Produce" means any food that is defined as such within the meaning of the FDA Food Safety Modernization Act and is a raw agricultural commodity, including raw agricultural commodities that are grown domestically or imported or offered for sale in Louisiana.

Proposed law designates the department as the state agency responsible for cooperating with the secretary of the United States Department of Health and Human Services regarding provisions of the FDA Food Safety Modernization Act.

Proposed law authorizes the commissioner to receive and expend state and federal funds appropriated for the administration of proposed law.

Proposed law requires the department to work with the secretary of the United States Department of Health and Human Services to develop a program to ensure the safety of the food supply in Louisiana.

Proposed law authorizes the commissioner to accept advisory assistance from the secretary of the United States Department of Health and Human Services in administering the program.

Proposed law authorizes the department to enter into contractual agreements with the LDH to provide services presently rendered by LDH pertaining to produce safety, or any related services under applicable food safety laws.

Proposed law requires the commissioner to represent the state in all communications and negotiations with the secretary of the United States Department of Health and Human Services regarding the implementation of proposed law and the FDA Food Safety Modernization Act.

Proposed law authorizes the commissioner to adopt rules in accordance with the Administrative Procedure Act (APA) to enforce proposed law and to enforce standards for growing, harvesting,

packing, and holding of produce for human consumption and to employ necessary personnel.

Proposed law requires any person, firm, or corporation owning or operating a covered produce farm in Louisiana to do the following:

- (1) Register with the department on an annual basis no later than July first of each year.
- (2) Update their registration with the department within ninety days of any changes in activity on the covered produce farm.

Proposed law authorizes the commissioner to do the following:

- (1) Enter the premises of any covered produce farm during reasonable hours to inspect the growing, harvesting, packing, and holding of produce.
- (2) Inspect any covered produce farm record relating to the growing, harvesting, packing, or holding of produce.

Proposed law provides that a person shall not impede, obstruct, hinder, or otherwise prevent or attempt to prevent the department, an inspector of the department, or any employee of the department in the performance of his duties.

Proposed law provides that nothing in proposed law shall limit the commissioner's authority to respond to an emergency in order to prevent a public health hazard.

Proposed law requires any person, firm, or corporation owning or operating a covered produce farm to maintain records required by the rules and make those records available to the department upon request. Further requires that records be kept for at least two years.

Proposed law grants the commissioner, at all reasonable times, access to investigate any person, firm, or corporation owning or operating a covered produce farm and the right to copy documentary evidence.

Proposed law requires any person, firm, or corporation owning or operating a covered produce farm to file with the commissioner annual or special reports and answers in writing.

Proposed law authorizes the commissioner to petition a court of competent jurisdiction for writs of mandamus or writs of injunction and issue stop orders prohibiting the growing, harvesting, packing, or holding of produce in certain circumstances.

Proposed law provides that it is the duty of the district attorney in each parish to prosecute offenses occurring in each parish under his jurisdiction.

Proposed law authorizes the commissioner to issue a stop order prohibiting the growing, harvesting, packing, or holding of produce when he has reason to believe a violation has occurred.

Proposed law subjects any person, firm, or corporation convicted of any of the following offenses to a fine of not less than \$1000 nor more than \$5000 dollars, or to imprisonment for a term of not more than three years, or both:

- (1) To willfully make, or cause to be made, any false entry or statement of fact in a report required by proposed law.
- (2) To willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by a person, firm, or corporation subject to proposed law.
- (3) To willfully neglect or fail to make full, true, and factual entries in any accounts, records, or memoranda related to the business of a person, firm, or corporation subject to proposed law.
- (4) To willfully remove out of the state's jurisdiction, or mutilate, alter, or by any other means falsify any documentary evidence of any person, firm or corporation subject to proposed law.
- (5) To willfully refuse to submit to the commissioner or to his authorized agents, for the purpose of inspection and making copies, any documentary evidence in the possession of or within the control of any person, firm, or corporation subject to proposed law.

Proposed law authorizes the commissioner to impose a civil penalty of not more than \$500 for violations of proposed law.

Proposed law subjects any person, firm, or corporation to a civil penalty of \$100 for failure to file an annual or special report. Each day on which a violation occurs constitutes a separate offense.

Proposed law provides that penalties may only be assessed by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the APA.

Proposed law shall remain in effect only as long as the federal funds required to implement the provisions of the FDA Food Safety Modernization Act are provided.

Proposed law shall be null and void upon the date of repeal of 21 C.F.R. Part 112.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 3:921-931)