

SENATE BILL NO. 256 (Substitute of Senate Bill No. 126 by Senator Thompson)

BY SENATOR THOMPSON

1 AN ACT

2 To enact Part V of Chapter 7 of Title 3 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 3:921 through 928, relative to produce safety; to provide relative
4 to the authority of the Louisiana Department of Agriculture and Forestry and the
5 Louisiana Department of Health regarding the provisions of the FDA Food Safety
6 Modernization Act; to provide for the authority of the commissioner of agriculture
7 and forestry; to authorize the commissioner to adopt rules; to provide for the
8 registration and regulation of covered produce farms; to provide for criminal and
9 civil penalties; to provide for definitions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part V of Chapter 7 of Title 3 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 3:921 through 928, is hereby enacted to read as follows:

13 PART V. PRODUCE SAFETY

14 §921. Definitions

15 As used in this Part, the following words, terms, and phrases shall have
16 the meanings ascribed to them as follows:

17 (1) "Commissioner" means the Louisiana commissioner of agriculture
18 and forestry.

19 (2) "Covered produce farm" means any farm engaged in the growing,
20 harvesting, packing, or holding of produce for human consumption which is
21 subject to the requirements of the FDA Food Safety Modernization Act, but
22 shall not include farms that have twenty-five thousand dollars or less of gross
23 income from sales of produce in a year.

24 (3) "Department" means the Louisiana Department of Agriculture and
25 Forestry.

1 (4) "Produce" means any food that is defined as such within the meaning
2 of the FDA Food Safety Modernization Act and is a raw agricultural
3 commodity, including raw agricultural commodities that are grown
4 domestically or imported or offered for sale in Louisiana.

5 §922. Federal and state cooperation; designated authority

6 A.(1) The department is hereby designated as the state agency
7 responsible for cooperating with the secretary of the United States Department
8 of Health and Human Services regarding provisions of the FDA Food Safety
9 Modernization Act that fall within the department's authority granted by this
10 Part.

11 (2) The commissioner is authorized to receive and expend state and
12 federal funds appropriated for the administration of this Part.

13 B. The department shall work with the secretary of the United States
14 Department of Health and Human Services to develop a program to ensure the
15 safety of agricultural produce in Louisiana.

16 C. The commissioner may accept advisory assistance from the secretary
17 of the United States Department of Health and Human Services in developing
18 the program authorized by this Part, technical and laboratory assistance and
19 training, including necessary curriculum, instructional materials, and
20 equipment, and financial assistance or other aid for administration of the
21 program authorized by this Part.

22 D. The commissioner shall represent the state in all communications and
23 negotiations with the secretary of the United States Department of Health and
24 Human Services regarding the implementation of this Part and the provisions
25 of the FDA Food Safety Modernization Act that fall within the department's
26 authority granted by this Part.

27 §923. Authority; enforcement

28 A. The commissioner is authorized to and may adopt rules and
29 regulations in accordance with the Administrative Procedure Act to do the
30 following:

1 (1) Enforce standards for growing, harvesting, packing, and holding of
 2 produce for human consumption and administer the provisions of this Part.

3 (2) Enter the premises of any covered produce farm during reasonable
 4 hours to inspect the growing, harvesting, packing, and holding of produce.

5 (3) Investigate the organization, business, conduct, practices, and
 6 management of any covered produce farm engaged in intrastate commerce.

7 (4) Inspect or copy any covered produce farm record related to the
 8 growing, harvesting, packing, or holding of produce.

9 (5) Issue stop orders prohibiting the growing, harvesting, packing, or
 10 holding of produce.

11 B. No person shall impede, obstruct, hinder, or otherwise prevent or
 12 attempt to prevent the department, an inspector of the department, or any
 13 employee of the department in the performance of his duties pursuant to this
 14 Part.

15 C. The provisions of this Section shall not limit the commissioner's
 16 authority to respond to an emergency in order to prevent a public health
 17 hazard, including communication with applicable state and federal agencies.

18 §924. Records; registration; reports

19 Any person, firm, or corporation owning or operating a covered produce
 20 farm in the state shall:

21 (1) Register with the department on an annual basis no later than July
 22 first of each year.

23 (2) Update their registration with the department within ninety days of
 24 any changes in activity on the covered produce farm.

25 (3) Maintain all records required by the rules adopted pursuant to this
 26 Part and make those records available to the department upon request.

27 (4) File with the commissioner annual or special reports and answers in
 28 writing.

29 §925. Criminal penalties; offenses

30 A. Any person, firm, or corporation convicted in a court of competent

1 jurisdiction of any of the following offenses shall be subject to a fine of not more
2 than five hundred dollars:

3 (1) To willfully make, or cause to be made, any false entry or statement
4 of fact.

5 (2) To willfully make, or cause to be made, any false entry in any
6 account, record, or memorandum required pursuant to this Part.

7 (3) To willfully neglect or fail to make full, true, and factual entries in
8 any accounts, records, or memoranda required pursuant to this Part.

9 (4) To willfully remove out of the state's jurisdiction, or mutilate, alter,
10 or by any other means falsify any documentary evidence required pursuant to
11 this Part.

12 (5) To willfully refuse to submit to the commissioner or to his authorized
13 agents, for the purpose of inspection and making copies, any documentary
14 evidence required pursuant to this Part.

15 B. The department shall not impose a fine pursuant to the provisions of
16 this Section if the federal government has imposed a fine for the same violation
17 pursuant to provisions of the FDA Food Safety Modernization Act.

18 §926. Civil penalties

19 A. Any person who violates a provision of this Part or a regulation
20 adopted pursuant to the provisions of this Part shall be subject to a civil penalty
21 of not more than one hundred dollars per violation.

22 B. Civil penalties may be assessed only by ruling of the commissioner
23 based upon an adjudicatory hearing held in accordance with the provisions of
24 the Administrative Procedure Act and this Part.

25 §927. Louisiana Department of Health; authority

26 A. Nothing in this Part shall be construed as eliminating or diminishing
27 the authority of the Louisiana Department of Health to regulate food as
28 provided in Title 40 of the Louisiana Revised Statutes of 1950.

29 B. The Louisiana Department of Health is hereby designated as the state
30 agency responsible for cooperating with the secretary of the United States

1 Department of Health and Human Services regarding provisions of the FDA
 2 Food Safety Modernization Act that fall within its authority granted in Title 40
 3 of the Louisiana Revised Statutes of 1950.

4 §928. Effectiveness

5 A. The provisions of this Part shall remain in effect only as long as the
 6 federal funds required to implement the provisions of the FDA Food Safety
 7 Modernization Act referenced in this Part are provided.

8 B. The provisions of this Part shall be null and void upon the date of
 9 repeal of 21 C.F.R. Part 112.

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____