

Regular Session, 2013

SENATE BILL NO. 168

BY SENATORS THOMPSON, ALLAIN, GALLOT, LONG AND RISER

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

AGRICULTURE/FOREST DEPT. Provides for the merger of the Feed, Fertilizer, and Agricultural Liming Commission and the Seed Commission and creates the Agricultural Chemistry and Seed Commission. (gov sig)

AN ACT

To amend and reenact the heading of Chapter 10-A and the heading of Part I of Chapter 10-A of Title 3 of the Louisiana Revised Statutes of 1950, and R.S. 3:1381(1), 1382(A) and (B), 1407, 1430.13(A) and (D), the introductory paragraph of 1431, (1), (3), (4), and (17) through (30), 1433(A)(1)(b) and (f), the introductory paragraph of (3), (4), (5), and (7), 1434(1), (2), (4) and (5), 1435(1) through (4), and (6) through (8), the introductory paragraph of 1436 (1), (2)(a) and (5)(c), 1437(A), 1438, 1440, 1441, 1443, 1444(1), (2), (4), (5) and (8), 1445(A)(1) and (3), and (B)(2) and (3), 1446(A), the introductory paragraph of (B), and (B)(1), the introductory paragraph of 1449(A), (A)(1) and (2), and (B), and R.S. 36:629(H), to enact R.S. 3:1431(31) and 1446(B)(5), and to repeal R.S. 3:1421, 1432, 1444(11) and Part II of Chapter 11 of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:1551 and 1552, and R.S. 36:629(C)(6), relative to the merger of the Feed, Fertilizer, and Agricultural Liming Commission and the Seed Commission; to create and provide for the membership of the Agricultural Chemistry and Seed Commission; to repeal the Seed Commission; to provide for definitions; to correct internal references; to provide relative to civil penalties and procedures for imposition of penalties; to

1 repeal a duplicate provision related to the disposition of funds; to repeal the  
2 prohibition against relabeling seeds more than one time; to repeal bond requirements  
3 for agents of nurserymen; to provide for technical corrections; and to provide for  
4 related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. The heading of Chapter 10-A and the heading of Part I of Chapter 10-A  
7 of Title 3 of the Louisiana Revised Statutes of 1950, and R.S. 3:1381(1), 1382(A) and (B),  
8 1407, 1430.13(A) and (D), the introductory paragraph of 1431, (1), (3), (4), and (17) through  
9 (30), 1433(A)(1)(b) and (f), the introductory paragraph of (3), (4), (5), and (7), 1434(1), (2),  
10 (4) and (5), 1435(1) through (4), and (6) through (8), the introductory paragraph of 1436 (1),  
11 (2)(a) and (5)(c), 1437(A), 1438, 1440, 1441, 1443, 1444(1), (2), (4), (5) and (8), 1445(A)(1)  
12 and (3), and (B)(2) and (3), 1446(A), the introductory paragraph of (B), and (B)(1), the  
13 introductory paragraph of 1449(A), (A)(1) and (2), and (B) are hereby amended and  
14 reenacted, and R.S. 3:1431(31) and 1446(B)(5) are hereby enacted to read as follows:

15 CHAPTER 10-A. FEED ~~AND~~, FERTILIZERS, AGRICULTURAL LIMING  
16 AND SEEDS

17 PART I. FEED, FERTILIZER, ~~AND~~ AGRICULTURAL LIMING

18 CHEMISTRY AND SEED COMMISSION

19 §1381. Definitions

20 In this Chapter, the following definitions shall apply:

21 (1) "Commission" means the ~~Feed, Fertilizer, and Agricultural Liming~~  
22 Chemistry and Seed Commission.

23 \* \* \*

24 §1382. Commission; creation

25 A.(+) There is hereby created, within the Department of Agriculture and  
26 Forestry, the Louisiana ~~Feed, Fertilizer, and Agricultural Liming~~ Chemistry and  
27 Seed Commission, ~~to be composed of the commissioner of agriculture and forestry,~~  
28 ~~the director of the Louisiana Agricultural Experiment Station, the director of the~~  
29 ~~Louisiana Cooperative Extension Service, the president of Louisiana Farm Bureau~~

1 Federation, Inc., the chairmen of the Livestock Advisory Committee and the Dairy  
2 Advisory Committee of the Louisiana Farm Bureau Federation, Inc., the president  
3 of the Louisiana Thoroughbred Breeder's Association, the president of the Louisiana  
4 Cattlemen's Association, the president of the Louisiana Ag Industries Association,  
5 or their duly authorized representatives, a person who owns or operates a feed  
6 business which is not a member of the of the Louisiana Ag Industries Association,  
7 and an independent feed manufacturer domiciled in Louisiana. **The commission**  
8 **shall consist of seven members as follows:**

9 **(1) The commissioner of agriculture and forestry or his designee.**

10 **(2) One member and an alternate, representing the Louisiana**  
11 **Agricultural Experiment Station, appointed by the commissioner and who shall**  
12 **serve at the pleasure of the commissioner.**

13 **(3) One member and an alternate, representing the Louisiana**  
14 **Cooperative Extension Service, appointed by the commissioner and who shall**  
15 **serve at the pleasure of the commissioner.**

16 **(4) The president of Louisiana Farm Bureau Federation, Inc. or his**  
17 **designee, subject to the approval of the commissioner.**

18 **(5) One member representing the seed industry appointed by the**  
19 **commissioner from a list of three nominees submitted by the Louisiana Ag**  
20 **Industries Association who shall serve at the pleasure of the commissioner.**

21 **(6) One member representing the fertilizer industry appointed by the**  
22 **commissioner from a list of three nominees submitted by the Louisiana Ag**  
23 **Industries Association who shall serve at the pleasure of the commissioner.**

24 **(7) One member representing the feed industry appointed by the**  
25 **commissioner from a list of three nominees submitted by the Louisiana Ag**  
26 **Industries Association and a list of three nominees submitted by the Louisiana**  
27 **Cattlemen's Association who shall serve at the pleasure of the commissioner.**

28 ~~(2) The prospective appointee who owns or operates a feed business which~~  
29 ~~is not a member of the Louisiana Ag Industries Association and the prospective~~

1 ~~appointee who shall be an independent feed manufacturer domiciled in Louisiana~~  
2 ~~shall be appointed by and shall serve at the pleasure of the governor. Each~~  
3 ~~appointment by the governor shall be submitted to the Senate for confirmation.~~

4 B. The commissioner shall be ex officio chairman of the commission and  
5 shall be its chief executive officer responsible for enforcement of this Chapter. He  
6 is empowered to employ personnel, to purchase supplies, and to make such other  
7 expenditures as may be necessary for enforcing this Chapter. The commission may  
8 appoint a director and assistant director of the feed program, ~~and a director and an~~  
9 ~~assistant director of the fertilizer program, **and a director and assistant director of**~~  
10 **the seed program** who shall be appointed by the commission, subject to the  
11 approval of the commissioner. The directors and assistant directors shall be in the  
12 unclassified service. All employees of the commission shall be under the  
13 supervision and direction of the commissioner.

14 \* \* \*

15 §1407. Disposition of funds; **Feed and Fertilizer Fund**

16 A.(1) All fees, assessments, penalties, and all other funds received by the  
17 commission under the provisions **of Parts II and III** of this Chapter, **except for the**  
18 **deficiency assessments paid to the purchaser-user as provided for in R.S. 3:1415**  
19 **and the consumer as provided for in R.S. 3:1430.13 and** subject to the exceptions  
20 contained in Article VII, Section 9 of the Constitution of Louisiana, shall be  
21 deposited immediately upon receipt into the state treasury and shall be credited to the  
22 Bond Security and Redemption Fund.

23 (2) Out of the funds remaining in the Bond Security and Redemption Fund  
24 after a sufficient amount is allocated from that fund to pay all obligations secured by  
25 the full faith and credit of the state which become due and payable within any fiscal  
26 year, the treasurer, prior to placing the remaining funds in the state general fund,  
27 shall pay an amount equal to the total amount of funds paid into the state treasury by  
28 the commission under the provisions **of Parts II and III** of this Chapter into a  
29 special fund which is hereby created in the state treasury and designated as the "Feed

1 and Fertilizer Fund".

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

7 B. Subject to appropriation, the monies in the Feed and Fertilizer Fund shall  
8 be used for the following purposes:

9 (1) To provide for the expenses of the programs established by ~~this~~ **Parts II**  
10 **and III of this** Chapter and the expenses of the office of agricultural and  
11 environmental sciences, as determined by the commissioner.

12 (2) To renovate, maintain, and equip a building on the Baton Rouge campus  
13 of the Louisiana State University and Agricultural and Mechanical College to  
14 provide administrative offices and analytical laboratories to be used in connection  
15 with the programs established by **Parts II and III of** this Chapter.

16 (3) To build, equip, and maintain a building to house the offices of the  
17 Department of Agriculture and Forestry.

18 (4) To fund any and all costs related to the fulfillment of the powers,  
19 responsibilities, and purposes of **Parts I, II and III of** this Chapter.

20 C. The Department of Agriculture and Forestry or the Louisiana Agricultural  
21 Finance Authority on behalf of the Department of Agriculture and Forestry may fund  
22 the anticipated funds appropriated from the Feed and Fertilizer Fund into revenue  
23 bonds for the purpose of renovating a building on the Baton Rouge campus of the  
24 Louisiana State University and Agricultural and Mechanical College to provide  
25 administrative offices and analytical laboratories to be used in connection with the  
26 programs established by **Parts II and III of** this Chapter and for the purpose of  
27 acquiring, constructing, renovating, and equipping buildings and related facilities for  
28 use by the Department of Agriculture and Forestry in connection with promoting and  
29 assisting agriculture and forestry in this state. The Department of Agriculture and

1 Forestry may pledge those funds to secure the repayment of revenue bonds or to  
2 secure a lease or purchase agreement entered into in connection with the issuance of  
3 revenue bonds for those purposes.

4 \* \* \*

5 §1430.13. Disposition of fees and penalties

6 A. All fees and penalties provided for in this ~~Chapter~~ **Part** shall be paid to the  
7 commission and disposed of as provided in this Section.

8 \* \* \*

9 D. Out of the funds remaining in the Bond Security and Redemption Fund  
10 after a sufficient amount is allocated from that fund to pay all obligations secured by  
11 the full faith and credit of the state which become due and payable within any fiscal  
12 year, the treasurer, prior to placing the remaining funds in the state general fund,  
13 shall pay an amount equal to the total amount of the funds paid into the state treasury  
14 under the provisions of **Parts II and III of** this Chapter into the Feed and Fertilizer  
15 Fund. The funds are to be used for the expenses of the programs established for the  
16 purposes of **Parts II and III of** this Chapter and for the other purposes for which  
17 funds in the Feed and Fertilizer Fund may be used as determined by the  
18 commissioner.

19 §1431. Terms defined

20 As used in this ~~Chapter~~ **Part**, the following terms have the meanings given:

21 (1) "Advertisement" means all representations, other than those on the label,  
22 disseminated in any manner or by any means, relating to seed within the scope of this  
23 ~~Chapter~~ **Part**.

24 \* \* \*

25 (3) "Certified seeds", "registered seeds", and "foundation seeds" are seeds  
26 which have been inspected and sampled during their period of growth and  
27 preparation for market by the commissioner, or by the inspection official of the state  
28 in which the seeds were grown, and which have been found to conform to the  
29 regulations issued by the commission under this ~~Chapter~~ **Part**.

1 (4) "Commission" means the **Agricultural Chemistry and** Seed  
2 Commission.

3 \* \* \*

4 (17) **"Minor violation" means a violation of noncompliance which does**  
5 **not create a competitive disadvantage for licensees in full compliance; is not a**  
6 **violation which adversely affects human health, safety or the environment; is**  
7 **not a violation performed with malicious, deliberate or fraudulent intent; and**  
8 **is not a repetitive violation.**

9 (18) "Mixed seeds" are seeds of more than one kind or variety when each  
10 kind or variety is present in excess of five percent of the whole.

11 ~~(18)~~(19) "Noxious weeds" are weeds which are highly destructive and  
12 difficult to control by good cultural practices and the use of herbicides.

13 ~~(19)~~(20) "Origin" means place, state, or foreign country where grown.

14 ~~(20)~~(21) "Other crop seeds" are the seeds of all kinds or varieties not of the  
15 kind or variety declared on the label.

16 ~~(21)~~(22) "Person" means any individual, firm, corporation, association, or  
17 partnership.

18 ~~(22)~~(23) "Prohibited noxious weed seeds" means any weed seeds which are  
19 prohibited from being present in agricultural, vegetable, flower, tree, or shrub seed.

20 ~~(23)~~(24) "Pure seeds" are all seeds of the kind and variety under  
21 consideration, whether shriveled, cracked, or otherwise injured, and pieces of seeds  
22 larger than one-half the original size.

23 ~~(24)~~(25) "Retail seedsman" means any person who sells seed at retail directly  
24 to the consumer either in quantities of not less than one pound or any quantity  
25 including closed containers of less than one pound.

26 ~~(25)~~(26) "Seed" is a propagative part of a plant capable of producing a new  
27 plant, including but not limited to those parts commonly referred to as seeds, bulbs,  
28 roots, tubers, and other propagating stock.

29 ~~(26)~~(27) "Stop order" is any written or printed notice given by the

1 commissioner of the Department of Agriculture and Forestry or his authorized  
2 agents, to the person with a lot of seed, directing the person not to sell or offer for  
3 sale the seed until the requirements of this ~~Chapter~~ **Part** and regulations promulgated  
4 hereunder have been complied with and a written release is issued. Such seeds may  
5 be released for sale as feed.

6 ~~(27)~~**(28)** "Treated" means that the seed has received an application of a  
7 substance or that it has been subjected to a process for which a claim is made.

8 ~~(28)~~**(29)** "Variety" is a subdivision of a kind characterized by growth, plant,  
9 fruit, seed, or other characteristic by which it can be differentiated from other seeds  
10 of the same kind.

11 ~~(29)~~**(30)** "Vegetable seeds" are seeds of vegetable crops grown in gardens or  
12 on truck farms.

13 ~~(30)~~**(31)** "Weed seeds" are seeds of all plants that are considered to be  
14 undesirable or troublesome in an area where the plant is not wanted.

15 \* \* \*

16 §1433. Powers and ~~duties of seed~~ **responsibilities of** commission

17 A. The commission shall:

18 (1)(a) \* \* \*

19 (b) Establish the standards and tolerances to be allowed in the administration  
20 of this ~~Chapter~~ **Part**;

21 \* \* \*

22 (f) Make all rules and regulations pertaining to the enforcement of this  
23 ~~Chapter~~ **Part**.

24 \* \* \*

25 (3) In making rules and regulations, give consideration to the following with  
26 respect to each kind of seed or other propagating stock regulated by this ~~Chapter~~  
27 **Part**:

28 \* \* \*

29 (4) Hold hearings on alleged violations of the provisions of this ~~Chapter~~ **Part**



1 or of the rules and regulations adopted pursuant to this ~~Chapter~~ **Part**.

2 (5) Advise the commissioner on the civil penalties to be imposed or the  
3 injunctive or other civil relief to be sought to punish and restrain violations of the  
4 provisions of this ~~Chapter~~ **Part** or of the rules and regulations adopted pursuant to  
5 this ~~Chapter~~ **Part**.

6 \* \* \*

7 (7) Declare plants to be weeds or noxious weeds in all or part of the state and  
8 to prohibit, restrict, or regulate the sale, distribution, movement, and use of weed  
9 seeds or noxious weed seeds by regulations adopted pursuant to this ~~Chapter~~ **Part**.

10 \* \* \*

11 §1434. Powers and duties of the commissioner ~~of agriculture~~

12 The commissioner shall:

13 (1) Enforce this ~~Chapter~~ **Part** and all rules and regulations made and adopted  
14 by the commission.

15 (2) Sample, inspect, test, and make analyses of agricultural, vegetable, and  
16 flower seeds transported, offered for sale, sold, or distributed in Louisiana for  
17 planting purposes; determine whether the seeds are in compliance with this ~~Chapter~~  
18 **Part** and with rules and regulations made under this ~~Chapter~~ **Part**; and notify  
19 promptly the person who transported, distributed, sold, or offered for sale the seeds  
20 of any violation.

21 \* \* \*

22 (4) Require reports necessary to administer this ~~Chapter~~ **Part** and rules and  
23 regulations made under this ~~Chapter~~ **Part**.

24 (5) Collect, administer, and disburse the proceeds of the assessment, fees,  
25 interest, penalties, and other monies collected pursuant to this ~~Chapter~~ **Part**.

26 §1435. Authority of the commissioner

27 The commissioner may:

28 (1) Employ agents necessary to enforce this ~~Chapter~~ **Part** and the rules and  
29 regulations made under this ~~Chapter~~ **Part**.

1                   (2) In order to have access to seeds subject to this ~~Chapter~~ **Part**, enter, during  
2 regular business hours, any public or private premises where agricultural, vegetable,  
3 or flower seeds or other propagating stock is sold, offered for sale, or distributed.

4                   (3) Issue and enforce a stop order to the person with a lot of seed or other  
5 propagating stock which the commissioner finds, or has good reason to believe, is  
6 in violation of this ~~Chapter~~ **Part** or the rules and regulations made under this ~~Chapter~~  
7 **Part**.

8                   (4) Establish and maintain a seed laboratory; employ a State seed analyst,  
9 other analysts, and other personnel whose work he shall direct and supervise; and  
10 incur such other expenses necessary to comply with this ~~Chapter~~ **Part**.

11                   \*           \*           \*

12                   (6) Enter, either directly or through a duly authorized agent, the premises of  
13 any person producing, processing, distributing, or selling seeds and examine that  
14 person's books, accounts, and records, and obtain any other information necessary,  
15 for purposes of enforcing the provisions of this ~~Chapter~~ **Part** and the regulations  
16 adopted pursuant to this ~~Chapter~~ **Part**.

17                   (7) Seek and obtain injunctive or other civil relief to restrain and prevent  
18 violations of this ~~Chapter~~ **Part**, or rules and regulations adopted pursuant to this  
19 ~~Chapter~~ **Part**, or orders and rulings issued by the commissioner pursuant to this  
20 ~~Chapter~~ **Part**.

21                   (8) Institute civil proceedings to enforce his orders or rulings, collect any  
22 assessments, late fees, fines, penalties, or costs due under this ~~Chapter~~ **Part** or to  
23 otherwise enforce the provisions of this ~~Chapter~~ **Part** or rules and regulations  
24 adopted pursuant to this ~~Chapter~~ **Part**.

25 §1436. Labeling of seeds

26                   Each container of agricultural, vegetable, or flower seeds, or other  
27 propagating stock, which is sold or offered for sale in Louisiana for planting  
28 purposes shall bear thereon or have attached thereto in a conspicuous place a label  
29 plainly written or printed in the English language. The label shall give the following

1 information:

2 (1) For all agricultural, vegetable, and flower seeds treated as defined in this  
3 ~~Chapter~~ **Part** for which a separate label may be used:

4 \* \* \*

5 (2) On agricultural seeds:

6 (a) Except as otherwise provided herein, the commonly accepted name of the  
7 kind and variety of each agricultural seed component in excess of five percent of the  
8 whole, and the percentage of weight of each in the order of its predominance. The  
9 provisions of this Subparagraph shall not prohibit the sale of wheat and oat seeds  
10 which are labeled "variety not stated" and which meet the other requirements of this  
11 ~~Chapter~~ **Part**. The commission may adopt rules and regulations governing the sale  
12 and labeling of variety not stated wheat and oat seeds. Hybrids shall be labeled as  
13 hybrids.

14 \* \* \*

15 (5) On vegetable seeds in containers of one pound or less which germinate  
16 less than the standards established by the commission under the provisions of R.S.  
17 3:1433(3)(a):

18 \* \* \*

19 (c) The word "~~Substandard~~ **Below Standard**" in not less than eight-point  
20 type.

21 \* \* \*

22 §1437. Registration of seed dealers

23 A. Every person, except persons exempt by R.S. ~~3:1446~~ **3:1445**, who sells,  
24 distributes, or offers or handles for sale agricultural, vegetable, or flower seeds or  
25 other propagating stock of one pound or more in weight shall register with the  
26 commissioner as a seed dealer. Every seed dealer shall register the number and  
27 location of each place of business at which the seeds are sold, distributed, or offered  
28 or handled for sale. The commissioner shall issue to the registered seed dealer a  
29 license to engage in the business.

\* \* \*

§1438. Suspension or revocation of seed dealer license

Any licensee who violates any of the provisions of this ~~Chapter~~ **Part** or the regulations adopted under the provisions of this ~~Chapter~~ **Part** shall be subject to having his license suspended, revoked, or placed on probation, in addition to any other penalties authorized by this ~~Chapter~~ **Part**.

\* \* \*

§1440. Stop order

A stop order shall prohibit further sale, exchange, movement, or distribution of seeds included in the order until the commissioner is satisfied that this ~~Chapter~~ **Part** and rules and regulations of the commission have been complied with and the commissioner has issued a written release to the person with such seed. After a stop order is given, the person receiving the stop order shall have thirty days within which to comply and to obtain a written release of the order. This Section shall not prevent the commissioner from proceeding in accordance with other Sections in this ~~Chapter~~ **Part**.

§1441. Seizure

When the commissioner issues a stop order to a person with a lot of seed and such person fails to comply with this ~~Chapter~~ **Part** or the regulations of the commission, the commissioner shall seize the lot of seed and shall destroy the lot within thirty days, or shall dispose of it in the manner prescribed by the rules and regulations made by the commission.

§1443. Disclaimer or nonwarranty clause of no effect

The use of a disclaimer or nonwarranty clause in any invoice, advertisement, or label pertaining to seeds shall not exempt a person from the provisions of this ~~Chapter~~ **Part**.

§1444. Prohibitions

No person shall:

- (1) Sell, offer for sale, transport, or distribute any agricultural, vegetable, or

1 flower seeds unless the seeds have been tested in accordance with the rules and  
2 regulations adopted by the **Agricultural Chemistry and** Seed Commission. The  
3 commission by rule may require information relative to the test to be affixed to the  
4 packaging of the seeds.

5 (2) Sell, offer for sale, transport, or distribute any agricultural, vegetable or  
6 flower seeds which are not labeled in accordance with this ~~Chapter~~ **Part** or which  
7 have false or misleading labeling.

8 \* \* \*

9 (4) Sell, offer for sale, transport, or distribute any agricultural seeds  
10 containing noxious weed seeds, subject to tolerances and methods of determinations,  
11 in excess of those prescribed under this ~~Chapter~~ **Part**.

12 (5) Detach, deface, destroy, or use a second time any label provided for in  
13 this ~~Chapter~~ **Part** or the rules and regulations made by the commission.

14 \* \* \*

15 (8) Obstruct in any way any authorized person in the performance of his  
16 duties under this ~~Chapter~~ **Part**.

17 \* \* \*

18 §1445. Exemptions

19 A. The provisions of R.S. 3:1436 shall not apply:

20 (1) To common carriers with respect to seeds transported in the ordinary  
21 course of business as a carrier. R.S. 3:1436 shall apply to carriers engaged in  
22 processing or merchandising seeds subject to the provisions of this ~~Chapter~~ **Part**.

23 \* \* \*

24 (3) To agricultural seeds when grown, sold, and delivered by the producer  
25 on his own premises when the growing of crops for reproductive purposes is not the  
26 primary farming occupation of the producer. If the seeds are advertised for sale  
27 through any medium or if the seeds are delivered by a common carrier, except for the  
28 purpose of recleaning, they shall be labeled in accordance with this ~~Chapter~~ **Part**.

29 B. The provisions of R.S. 3:1444 shall not apply:

\* \* \*

(2) To seeds in storage in, consigned to, or being transported to seed cleaning or processing establishments for cleaning and processing only. Any labeling or representation which is made with respect to the unclean seeds shall be subject to this ~~Chapter~~ **Part**.

(3) To agricultural seeds when grown, sold, and delivered by the producer on his own premises when the growing of crops for reproductive purposes is not the primary farming occupation of the producer. If the seeds are advertised for sale through any medium or if the seeds are delivered by a common carrier, except for the purpose of recleaning, they shall be labeled in accordance with this ~~Chapter~~ **Part**.

\* \* \*

§1446. Penalty for violation; procedures for imposition of penalties

A. Whoever violates this ~~Chapter~~ **Part** or the rules and regulations made under this ~~Chapter~~ **Part** shall ~~may~~ be subject to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commission based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act and this ~~Chapter~~ **Part** as follows:

(1) The commission shall be convened by the commissioner for the purpose of hearing any alleged violation of this ~~Chapter~~ **Part** or any rule and regulation adopted pursuant to this ~~Chapter~~ **Part**.

\* \* \*

**(5) Nothing in this Section shall be construed as requiring the commission to institute adjudicatory proceedings for minor violations of this Part when the department believes that the public interest will best be served by a suitable notice of noncompliance in writing.**

\* \* \*

§1449. Disposition of funds; Seed ~~Commission~~ Fund

1           A. All assessments, fees, penalties, and other funds received under the  
2 provisions of this ~~Chapter~~ **Part** shall be disposed of in accordance with the following  
3 provisions:

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

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

16   \*           \*           \*

17           B. Subject to appropriation, the monies in the fund shall be used for the  
18 following purposes:

19           (1) To provide for the expenses of the program established by this ~~Chapter~~  
20 **Part**, as determined by the ~~commission~~ **commissioner**.

21           (2) To fund any and all costs related to the carrying out of the powers and  
22 duties granted to the commission and the commissioner of agriculture and forestry  
23 under this ~~Chapter~~ **Part**.

24 Section 2. R.S. 36:629(H) is hereby amended and reenacted to read as follows:

25 §629. Transfer of boards, commissions, departments, and agencies to the

26   Department of Agriculture and Forestry

27   \*           \*           \*

28           H. The ~~Louisiana Feed, Fertilizer, and Agricultural Liming~~ **Chemistry and**  
29 **Seed** Commission (R.S. 3:1381 et seq.) is placed within the Department of

1 Agriculture and Forestry and shall perform and exercise its powers, duties, functions,  
2 and responsibilities as provided by law.

3 \* \* \*

4 Section 3. R.S. 3:1421, 1432, 1444(11) and Part II of Chapter 11 of Title 3 of the  
5 Louisiana Revised Statutes of 1950, comprised of R.S. 3:1551 and 1552, are hereby repealed  
6 in their entirety.

7 Section 4. R.S. 36:629(C)(6) is hereby repealed in its entirety.

8 Section 5. The Louisiana State Law Institute is hereby directed to redesignate  
9 Subparts I and II of Part III of Chapter 10-A of Title 3 of the Louisiana Revised Statutes of  
10 1950, as Subparts A and B of Part III of Chapter 10-A of Title 3 of the Louisiana Revised  
11 Statutes of 1950.

12 Section 6. The Louisiana Law Institute is hereby directed to redesignate Part I of  
13 Chapter 11 of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:1431  
14 through 1449, as amended and reenacted by this Act, as "Part IV. Seeds" of Chapter 10-A  
15 of said Title.

16 Section 7. This Act shall become effective upon signature by the governor or, if not  
17 signed by the governor, upon expiration of the time for bills to become law without signature  
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
20 effective on the day following such approval.

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

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#### DIGEST

Thompson (SB 168)

Present law (R.S. 3:1382) provides for the Louisiana Feed, Fertilizer, and Agricultural Liming Commission, within the Louisiana Department of Agriculture and Forestry (LDAF), composed of the following members:

- (1) The commissioner of agriculture and forestry.
- (2) The director of the Louisiana Agricultural Experiment Station.
- (3) The director of the Louisiana Cooperative Extension Service.
- (4) The president of Louisiana Farm Bureau Federation, Inc.



- (5) The chairman of the Livestock Advisory Committee.
- (6) The chairman of the Dairy Advisory Committee of the Louisiana Farm Bureau Federation, Inc.
- (7) The president of the Louisiana Thoroughbred Breeder's Association.
- (8) The president of the Louisiana Cattlemen's Association.
- (9) The president of the Louisiana Ag Industries Association, or their duly authorized representative.
- (10) A person who owns or operates a feed business which is not a member of the Louisiana Ag Industries Association.
- (11) An independent feed manufacturer domiciled in Louisiana.

Proposed law changes present law to create the Louisiana Agricultural Chemistry and Seed Commission, within the LDAF, composed of the following seven members:

- (1) The commissioner of agriculture and forestry or his designee.
- (2) One member and an alternate, representing the Louisiana Agricultural Experiment Station, appointed by the commissioner who serves at the pleasure of the commissioner.
- (3) One member and an alternate, representing the Louisiana Cooperative Extension Service, appointed by the commissioner who serves at the pleasure of the commissioner.
- (4) The president of Louisiana Farm Bureau Federation, Inc. or his designee as approved by the commissioner.
- (5) One member representing the seed industry appointed by the commissioner from a list of three nominees submitted by the Louisiana Ag Industries Association who shall serve at the pleasure of the commissioner.
- (6) One member representing the fertilizer industry appointed by the commissioner from a list of three nominees submitted by the Louisiana Ag Industries Association who shall serve at the pleasure of the commissioner.
- (7) One member representing the feed industry appointed by the commissioner from a list of three nominees submitted by the Louisiana Ag Industries Association and a list of three nominees submitted by the Louisiana Cattlemen's Association who shall serve at the pleasure of the commissioner.

Proposed law authorizes the commission to appoint a director and assistant director of the seed program.

Proposed law defines "minor violation" as a violation of noncompliance which does not create a competitive disadvantage for licensees in full compliance; is not a violation which adversely affects human health, safety or the environment; is not a violation performed with malicious, deliberate or fraudulent intent; and is not a repetitive violation.

Present law provides for the disposition of funds related to fertilizer and creates the "Feed and Fertilizer Fund".

Proposed law repeals present law because the "Feed and Fertilizer Fund" was already created

in R.S. 3:1407.

Present law (R.S. 3:1432) provides for the Seed Commission composed of the following five members: commissioner of agriculture and forestry, director of Louisiana Cooperative Extension Service, director of Louisiana Agricultural Experiment Station, president of Louisiana Ag Industries Association, and president of Louisiana Farm Bureau Federation, Inc., or their designees. Present law authorizes the commission to employ a director and assistant director in the unclassified service and further authorizes the commissioner to employ all other necessary personnel.

Proposed law repeals present law and transfers the powers, duties, and functions of the Seed Commission to the Agricultural Chemistry and Seed Commission.

Present law (R.S. 3:1444(11)) prohibits a person from relabeling seeds more than one time.

Proposed law repeals present law.

Present law provides that violators shall be subject to a civil penalty of not more than \$500 for each act of violation and for each day of violation.

Proposed law changes "shall" to "may" on civil penalties for violations.

Proposed law provides that the commission is not required to institute adjudicatory proceedings for minor violations when the department believes that the public interest will best be served by a suitable notice of noncompliance in writing.

Present law (R.S. 3:1449) provides for the Seed Commission Fund and authorizes the Seed Commission to determine the expenses of the program.

Proposed law changes the name of the fund from "Seed Commission Fund" to "Seed Fund" and authorizes the commissioner to determine the expenses of the program.

Proposed law repeals bond requirements for agents of nurserymen.

Proposed law provides for technical corrections and corrects internal references.

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

(Amends the heading of Chapter 10-A and the heading of Part I of Chapter 10-A of Title 3, R.S. 3:1381(1), 1382(A) and (B), 1407, 1430.13(A) and (D), 1431(intro para), (1), (3), (4), and (17)-(30), 1433(A)(1)(b) and (f), (3)(intro para), (4), (5), and (7), 1434(1), (2), (4) and (5), 1435(1)-(4) and (6)-(8), 1436(1)(intro para), (2)(a) and (5)(c), 1437(A), 1438, 1440, 1441, 1443, 1444(1), (2), (4), (5) and (8), 1445(A)(1) and (3) and (B)(2) and (3), 1446(A), (B)(intro para) and (B)(1), 1449(A)(intro para), (A)(1) and (2) and (B), and R.S. 36:629(H); adds R.S. 3:1431(31) and 1446(B)(5); repeals R.S. 3:1421, 1432, 1444(11), 1551, 1552, and R.S. 36:629(C)(6))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill

1. Provides for changes to the membership of the commission.
2. Repeals bond requirements for agents of nurserymen.
3. Makes technical corrections.