

By: Holland

To: Agriculture

HOUSE BILL NO. 415
(As Passed the House)

1 AN ACT TO AMEND SECTION 69-25-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE COMMISSIONER OF AGRICULTURE SHALL MEET QUARTERLY
3 WITH THE DIRECTOR OF THE BUREAU OF PLANT INDUSTRY INSTEAD OF THE
4 STATE ENTOMOLOGIST; TO AMEND SECTION 69-25-5, MISSISSIPPI CODE OF
5 1972, TO PROVIDE THAT THE DIRECTOR OF THE BUREAU OF PLANT INDUSTRY
6 SHALL PERFORM CERTAIN FUNCTIONS PREVIOUSLY ASSIGNED TO THE STATE
7 ENTOMOLOGIST; TO PROVIDE THAT THE COMMISSIONER OF AGRICULTURE AND
8 THE DIRECTOR OF THE BUREAU OF PLANT INDUSTRY SHALL APPOINT THE
9 STATE ENTOMOLOGIST; TO AMEND SECTION 69-25-51, MISSISSIPPI CODE OF
10 1972, TO PROVIDE THAT THE DIRECTOR OF THE BUREAU OF PLANT
11 INDUSTRY, RATHER THAN THE STATE ENTOMOLOGIST, SHALL ACT AS A
12 REVIEWING OFFICER WHEN ANY ALLEGATION OR CHARGE HAS BEEN MADE
13 AGAINST A PERSON FOR VIOLATING THE RULES AND REGULATIONS OF THE
14 BUREAU OF PLANT INDUSTRY; AND FOR RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 SECTION 1. Section 69-25-3, Mississippi Code of 1972, is
17 amended as follows:

18 69-25-3. The State Plant Board is abolished and its duties
19 are transferred to the Commissioner of Agriculture and Commerce,
20 and it shall henceforth be known as the Bureau of Plant Industry.

21 There is created an Advisory Board to the Bureau of Plant
22 Industry, composed of the following: the State Chemist; the head
23 of the Entomology and Plant Pathology Department, Mississippi
24 State University of Agriculture and Applied Science; the head of
25 the Plant and Soil Science Department, Mississippi State
26 University of Agriculture and Applied Science; Alcorn State
27 University Director of Agriculture and Applied Sciences; and, for
28 a period of two (2) years, the following: one (1) soil
29 conservation district commissioner appointed by the commissioner;
30 two (2) residents of Mississippi who engage in the production of
31 any crop, appointed by the commissioner; one (1) resident of the
32 State of Mississippi who is a commercial applicator holding a

33 license issued under the rules and regulations of the Bureau of
34 Plant Industry, appointed by the commissioner; one (1) resident of
35 the State of Mississippi who is a restricted use pesticide
36 registrant or an employee of such person, appointed by the
37 commissioner; one (1) resident of the State of Mississippi who is
38 either a wholesale or retail horticulturist, appointed by the
39 commissioner, and one (1) resident of the State of Mississippi who
40 is a licensed landscape contractor, appointed by the commissioner,
41 who shall serve with no compensation and whose duties are to
42 advise the commissioner on all matters regarding the Bureau of
43 Plant Industry. The commissioner shall meet quarterly * * * with
44 the advisory board and the Director of the Bureau of Plant
45 Industry. It is the intent and purpose of this section to maintain
46 the domicile of this division of the Department of Agriculture and
47 Commerce at Mississippi State University of Agriculture and
48 Applied Science, Mississippi State, Mississippi.

49 SECTION 2. Section 69-25-5, Mississippi Code of 1972, is
50 amended as follows:[HS1]

51 69-25-5. The Commissioner of Agriculture and Commerce shall
52 appoint a full-time executive secretary and director, hereinafter
53 called the "Director of the Bureau of Plant Industry," whose
54 office shall be at Mississippi State University of Agriculture and
55 Applied Science. The director shall serve at the will and
56 pleasure of the commissioner and shall receive a salary in an
57 amount to be determined by the commissioner. It shall be the duty
58 of the director to enforce the rules and regulations adopted by
59 the commissioner and to perform such other functions that may be
60 assigned to him by the * * * commissioner.

61 The Commissioner of Agriculture and Commerce and the Director
62 of the Bureau of Plant Industry shall appoint a full-time State
63 Entomologist, who shall be a qualified entomologist and whose
64 office shall be at Mississippi State University of Agriculture and
65 Applied Science.

66 The full-time executive secretary and director provided for
67 in the first paragraph of this section shall carry out the
68 statutory functions of the executive officer of the Bureau of
69 Plant Industry, Mississippi Department of Agriculture and

70 Commerce, as provided in Section 69-21-107. He shall serve a term
71 of office on the State Board of Agricultural Aviation on a
72 continuous basis as long as he performs his functions as executive
73 secretary or director.

74 SECTION 3. Section 69-25-51, Mississippi Code of 1972, is
75 amended as follows:

76 69-25-51. (1) When any allegation or charge has been made
77 against a person for violating the rules and regulations of the
78 Bureau of Plant Industry within the regulatory office of the
79 Mississippi Department of Agriculture and Commerce or the laws set
80 forth in Sections 69-19-1 through 69-19-11 and Sections 69-21-1
81 through 69-21-27 and Sections 69-23-1 through 69-23-133,
82 Mississippi Code of 1972, the Director of the Bureau of Plant
83 Industry or his designated employee shall act as a reviewing
84 officer. The designated reviewing officer shall (a) cause the
85 complaint to be in writing and signed by the person making the
86 charge; (b) insure that the complaint is filed in the Office of
87 the Bureau of Plant Industry; and (c) send a copy of the complaint
88 and any supporting documents to the person accused along with a
89 request for the accused to respond to the allegations within
90 thirty (30) days. Such notification shall be accomplished by any
91 of the methods provided for in Rule 4 of the Mississippi Rules of
92 Civil Procedure. Upon receipt of the response and any supporting
93 documents from the accused, the reviewing officer shall screen all
94 information on file to determine the merit of the complaint or
95 lack thereof. The reviewing officer may meet with and discuss the
96 alleged violation with the accused.

97 (2) If the reviewing officer determines that the complaint
98 lacks merit, he may recommend to the Commissioner of Agriculture
99 and Commerce that the complaint be dismissed.

100 (3) If the reviewing officer determines that there are
101 reasonable grounds to indicate that a violation has occurred or if
102 the accused admits to the truth of the allegations upon which the

103 complaint is based, the reviewing officer may recommend to the
104 Commissioner of Agriculture and Commerce an appropriate penalty
105 which may be a written notice of warning, assessment of civil
106 penalties or suspension or cancellation of license or permit as
107 provided by the Rules and Regulations of the Bureau of Plant
108 Industry and/or a fine not to exceed Five Thousand Dollars
109 (\$5,000.00) for each violation.

110 (4) If the accused requests a hearing, in writing, within
111 thirty (30) days from receipt of the decision of the Commissioner
112 of Agriculture and Commerce, the commissioner shall appoint three
113 (3) members of the advisory board to the Bureau of Plant Industry
114 to act as a hearing committee and a hearing shall be scheduled.

115 In determining the amount of the penalty, the reviewing
116 officer shall consider the appropriateness of such penalty for the
117 particular violation, the effect of the penalty on the person's
118 ability to continue in business and the gravity of the violation.

119 SECTION 4. This act shall take effect and be in force from
120 and after July 1, 2000.