

By: Senator(s) Stogner

To: Agriculture

SENATE BILL NO. 2676
(As Sent to Governor)

1 AN ACT TO REENACT SECTION 69-3-19, MISSISSIPPI CODE OF 1972,
2 WHICH PROVIDES FOR THE DUTIES OF THE COMMISSIONER OF AGRICULTURE
3 UNDER THE AGRICULTURAL SEED LAW; TO AMEND REENACTED SECTION
4 69-3-19, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER; TO
5 REQUIRE PERSONS TRANSFERRING OWNERSHIP OF BERMUDA GRASS TO OBTAIN
6 A PERMIT FROM THE COMMISSIONER OF AGRICULTURE AND COMMERCE; TO
7 PROVIDE PENALTIES FOR VIOLATIONS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 69-3-19, Mississippi Code of 1972, is
10 reenacted and amended as follows:

11 69-3-19. (1) It shall be the duty of the Commissioner of
12 Agriculture and Commerce, acting either directly or through his
13 duly authorized agents:

14 (a) To sample, inspect, make analyses of and test
15 agricultural, vegetable, flower, tree and shrub seeds, and
16 transgenic seeds, transported, held in storage, sold, offered for
17 sale or exposed for sale, or distributed within this state for
18 seeding purposes, at such time and place, and to the extent as he
19 may deem necessary to determine whether the seeds are in
20 compliance with this article, and to notify promptly the person
21 who transported, distributed, possessed, sold, offered or exposed
22 the seed for sale, of any violation. Such test results shall be
23 sufficient to be used by the Mississippi Department of
24 Transportation to determine whether or not seed so tested meets
25 the requirements of the Department of Transportation as set out in
26 its contract specifications. No further testing shall be required
27 unless the Department of Transportation determines that more than
28 nine (9) months has elapsed, exclusive of the calendar month in
29 which the test was completed, between the germination test data



30 and the time of planting, or if by visual inspection the
31 Department of Transportation determines that the seed was
32 improperly stored or handled prior to planting.

33 (b) To prescribe and adopt reasonable rules and
34 regulations governing the methods of sampling, inspecting, making
35 analysis tests and examinations of agricultural, vegetable, flower
36 and tree and shrub seeds, including standards, and the tolerances
37 to be followed in the administration of this article, and any
38 other reasonable rules and regulations as may be necessary to
39 secure efficient enforcement of this article.

40 (c) To adopt and publish prohibited and restricted
41 noxious weed seed lists.

42 (d) To publish list of kinds of seeds known and
43 recognized to contain firm seeds.

44 (2) For the purpose of carrying out this article, the
45 commissioner individually or through his designated agents is
46 authorized:

47 (a) To enter upon any public or private premises where
48 agricultural, vegetable, flower, or tree and shrub seeds are sold,
49 offered or exposed for sale or distribution, during regular
50 business hours in order to have access to seeds or records subject
51 to this article and the rules and regulations, and to take samples
52 of seed or copies of records in conformity therewith; and

53 (b) To establish, maintain and support a state seed
54 testing laboratory with such facilities and personnel as may be
55 deemed necessary. The laboratory shall be located at Mississippi
56 State University of Agriculture and Applied Science. Such seed
57 laboratory and equipment shall be in cooperation with Mississippi
58 State University of Agriculture and Applied Science and under the
59 supervision of the Director of the Bureau of Plant Industry, who
60 shall be the state seed analyst; and

61 (c) To provide that any person, firm or corporation in
62 this state shall have the privilege of submitting service seed



63 samples for test to the state seed testing laboratory, subject to
64 the charges as specified in the rules and regulations. Any person
65 receiving a statement for seed analysis which is not paid in
66 ninety (90) days will be in violation of this article. Any
67 resident farmer may have one (1) sample of each kind tested free
68 in any calendar year. A signed request by a farmer or individual
69 must accompany the sample when it is sent in by a dealer;
70 otherwise, the sample will be recorded and charges for analysis
71 will be made to the dealer. Official seed samples drawn by
72 inspectors in the enforcement of this article shall have first
73 priority for testing in the state seed testing laboratory. The
74 state seed analyst shall not be obligated to analyze uncleaned,
75 unprocessed, and other time-consuming samples which obviously do
76 not meet seed law requirements, except as time and facilities will
77 permit; and

78 (d) To publish, in his discretion, the results of
79 analyses, tests, examinations, field trials and investigations of
80 any seed sampled under this article, together with any information
81 he may deem advisable; and

82 (e) To issue and enforce a written or printed "stop
83 sale" or "seizure" order to the owner or custodian of any lot of
84 agricultural, vegetable, flower, or tree and shrub seeds which the
85 commissioner or his authorized agent finds is in violation of this
86 article or the rules and regulations, which shall prohibit further
87 sale or movement of such seed until the officer has evidence that
88 the law has been complied with and a written release has been
89 issued to the owner or custodian of the seed; and

90 (f) To issue and enforce a "stop sale" or "seizure"
91 order with respect to a particular variety of agricultural,
92 vegetable, flower or tree and shrub seeds if the producer or
93 distributor of such variety is found to have violated this article
94 or the rules and regulations with respect to the particular
95 variety, which shall remain in effect until the producer or



96 distributor is in compliance with the law and has taken any action
97 required by the commissioner to correct the effect of the
98 violation in the marketplace; and

99 (g) To cooperate with the United States Department of
100 Agriculture in seed law enforcement.

101 (3) This section shall stand repealed on July 1, 2005.

102 **SECTION 2.** (1) Every person, firm, association or
103 corporation that shall transfer ownership of Bermuda grass for
104 commercial sprigging, or that shall issue, use or circulate any
105 certificate, advertisement, tag, seal, poster, letterhead, marking
106 circular, written or printed representation or description of or
107 pertaining to Bermuda grass intended for commercial sprigging or
108 sale shall conform to the standards or requirements as made by the
109 Commissioner of Agriculture and Commerce. Such persons, firms,
110 associations and corporations, before transferring ownership of
111 Bermuda grass, on or before the first day of July of each year,
112 shall secure an annual permit from the Commissioner of Agriculture
113 to engage in such business or practice. The annual permit fee
114 shall not exceed Twenty-five Dollars (\$25.00) for each person or
115 place of business.

116 (2) If a person, firm, association or corporation discovers
117 a new selection of Bermuda grass, such entity shall not name the
118 grass in such a manner as to misrepresent, infringe or mimic a
119 name already on the market. The commissioner may revoke the
120 permit of any person who misrepresents, infringes or mimics a name
121 in violation of this section.

122 (3) Any person who transfers ownership of Bermuda grass for
123 commercial sprigging without a permit as required under this
124 section shall be subject to a civil penalty, not to exceed Two
125 Hundred Fifty Dollars (\$250.00). All penalties levied by the
126 commissioner shall be paid into the General Fund in the State
127 Treasury.



128 (4) The Commissioner of Agriculture and Commerce shall
129 promulgate rules and regulations to implement the provisions of
130 this act.

131 **SECTION 3.** This act shall take effect and be in force from
132 and after its passage.

