To: Agriculture

MISSISSIPPI LEGISLATURE  REGULAR SESSION 2002

By: Senator(s) Canon, Dearing, Chaney  To: Agriculture

SENATE BILL NO. 2978

AN ACT TO AMEND SECTION 69-21-103, MISSISSIPPI CODE OF 1972, TO TRANSFER THE DUTIES OF THE AGRICULTURAL AVIATION BOARD TO THE DEPARTMENT OF AGRICULTURE AND COMMERCE; TO AMEND SECTION 69-21-105, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 69-21-109, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION 69-21-125, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FINES GO TO THE COUNTY; TO REPEAL SECTION 69-21-107, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE AGRICULTURAL AVIATION BOARD; TO REPEAL SECTION 69-21-111, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT CERTAIN HORMONAL HERBICIDES SHALL BE REGULATED BY THE DEPARTMENT OF AGRICULTURE AND COMMERCE; TO REPEAL SECTION 69-21-127, MISSISSIPPI CODE OF 1972, WHICH REPEALS THE AUTHORITY OF THE AGRICULTURAL AVIATION BOARD; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 69-21-103, Mississippi Code of 1972, is amended as follows:

69-21-103. The purpose of this article is to supervise and regulate for the public good all commercial agricultural aerial application within the State of Mississippi and to establish and promote a close working relationship between agricultural aerial applicators and the Mississippi Department of Agriculture and Commerce, the licensing of all persons engaged in the aerial application of pesticides, poisons, seeds and chemicals, and the registration of all such commercial agricultural aircraft and pilots.

The Department of Agriculture and Commerce shall be the Agricultural Aviation Board. All duties and powers of the Agricultural Aviation Board are transferred to the Department of Agriculture and Commerce. Whenever the term "Agricultural Aviation Board" appears in law, it shall mean the Department of Agriculture and Commerce.
The Commissioner of Agriculture and Commerce may assign the functions of the Agricultural Aviation Board to any organizational unit of the Department the Commissioner deems appropriate for the regulating of agricultural aviation.

SECTION 2. Section 69-21-105, Mississippi Code of 1972, is amended as follows:

69-21-105. As used in this article, the following terms shall have the meanings hereinafter ascribed to them:

(a) "Board" means the Department of Agriculture and Commerce.

(b) "Person" means any individual, corporation, firm, partnership, company, trust, association or other legal entity.

(c) "Aerial application" means the practice of engaging in agricultural aircraft operations for remuneration.

(d) "Agricultural aircraft operation" means:

(i) Dispensing any pesticide, seed or fertilizer by aircraft;

(ii) Dispensing any other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control by aircraft; or

(iii) Engaging in dispensing activities directly affecting agriculture, horticulture, or forest preservation by aircraft.

(e) "Aircraft" means any contrivance now known or hereafter invented that is used or designed for navigation of or flight in the air over land and water, and that is designed for or adaptable for use in agricultural aircraft operation.

(f) "Applicator" means any person, as herein defined, who is licensed under this article to engage in agricultural aircraft operations.

(g) "Pesticide" means any substance or mixture of substances intended for defoliating or desiccating plants, or for preventing, destroying, repelling or mitigating any insects,
fungi, bacteria, weeds, or other forms of plant or animal life which the board shall declare to be a pest.

(h) "Pilot" means the operator of an aircraft used in agricultural aircraft operation; provided, however, a pilot may also be a person who is licensed as an applicator under the provisions of this article.

(i) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the Class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs and flies; and to other classes of arthropods whose members are wingless and usually have more than six (6) legs, as for example, spiders, mites, ticks, centipedes and wood lice.

(j) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(k) "Desiccant" means any substances or mixtures of substances intended for artificially accelerating the drying of plant tissues.

SECTION 3. Section 69-21-109, Mississippi Code of 1972, is amended as follows:

69-21-109. The board, after public hearing duly held, is hereby vested with the authority to adopt such rules and regulations as may be necessary to regulate the application of chemicals and pesticides according to the time of year, manner, form and area of application, wind velocity, and may restrict the use of certain chemicals and pesticides which create an unusual hazard to the health, safety and welfare of the public. The board shall set professional standards for applicators and pilots in the interest of the safety, welfare and general well-being of the public of Mississippi.
The board shall have authority to procure samples of spray and dust materials before and after they are mixed in order to determine the concentration of the mixtures.

The Agricultural Aviation Board shall have authority to maintain an office and employ necessary personnel within the framework of fees collected to carry out the purposes of this article.

It shall be the duty of the board to enforce this article and all rules and regulations made and adopted in compliance with this article.

The board or its representatives shall have access to any premises where there is reason to believe that a chemical or pesticide is being or has been applied by an applicator, or where any applicator is based, or preparing to apply any of the materials herein stated, for the purpose of enforcement of this article. The board shall have authority to inspect equipment used for application of chemicals and pesticides as stated in this article.

* * * The board * * * shall closely assist the Mississippi Department of Transportation in carrying out its statutory functions to the end that aviation can continue its rapid advance.

SECTION 4. Section 69-21-125, Mississippi Code of 1972, is amended as follows:

69-21-125. (1) Violation of this article or the rules and regulations promulgated thereunder shall be a misdemeanor punishable by a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment. Each day's violation shall constitute a separate offense. All sums of money collected as a result of fines levied under this section shall be forwarded to the treasury of the county where prosecuted * * *.
ST: Agricultural Aviation Board; abolish and transfer duties to Department of Agriculture.

(2) In addition to the penalties herein provided, the board is hereby granted the authority to file in any court of competent jurisdiction injunctive proceedings against any person violating the provisions of this article or the rules and regulations promulgated hereunder.

(3) The Attorney General, district attorneys and county attorneys of the state shall assist the Board of Agricultural Aviation upon their request to carry out the penalty section of this article.

SECTION 5. Section 69-21-107, Mississippi Code of 1972, which establishes the Agricultural Aviation Board, is repealed.

SECTION 6. Section 69-21-111, Mississippi Code of 1972, which provides that hormonal herbicides shall be regulated by the Department of Agriculture, is repealed.

SECTION 7. Section 69-21-127, Mississippi Code of 1972, which provides for the repeal of the authority of the Agricultural Aviation Board, is repealed.

SECTION 8. This act shall take effect and be in force from and after its passage.