

By: Representative Eaton

To: Agriculture

HOUSE BILL NO. 889

1 AN ACT TO AMEND SECTIONS 69-23-9, 69-24-27, 75-27-19 AND  
2 75-33-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE MISSISSIPPI  
3 ADMINISTRATIVE PROCEDURES ACT BY REMOVING THE REQUIREMENT THAT A  
4 PUBLIC HEARING MUST BE HELD BY THE DEPARTMENT OF AGRICULTURE AND  
5 COMMERCE BEFORE ADOPTING REGULATIONS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 69-23-9, Mississippi Code of 1972, is  
8 amended as follows:

9 69-23-9. (1) The commissioner is authorized, after  
10 opportunity for a hearing:

11 (a) To declare as a pest any form of plant or animal  
12 life or virus which is injurious to plants, man, domestic animals,  
13 articles or substances;

14 (b) To determine whether pesticides registered under  
15 authority of Section 24 (c) of FIFRA are highly toxic to man in  
16 conformity with federal regulations;

17 (c) To determine standards of coloring or discoloring  
18 for pesticides and to subject pesticides to the requirements of  
19 Section 69-23-5(1).

20 (2) The commissioner may adopt, amend or repeal rules and  
21 regulations for carrying out the provisions of this chapter,  
22 including, but not limited to, rules and regulations providing for  
23 the collection and examination of samples; the safe handling,  
24 transportation, storage, display, distribution and disposal of  
25 pesticides and their containers; protecting the environment;  
26 labeling and adopting state restricted pesticide uses.

27 (3) In order to avoid confusion endangering the public health  
28 resulting from diverse requirements, particularly as to the

29 labeling and coloring of pesticides, and to avoid increased costs  
30 to the people of this state due to the necessity of complying with  
31 such diverse requirements in the manufacture and sale of such  
32 pesticides, it is desirable that there should be uniformity  
33 between the requirements of the several states and the federal  
34 government relating to such pesticides. To this end the  
35 commissioner is authorized, after due public hearing, to adopt by  
36 regulation such regulations, applicable to and in conformity with  
37 the primary standards established by this chapter, as have been or  
38 may be prescribed by the United States Government with respect to  
39 pesticides.

40 (4) No action taken by the commissioner under the provisions  
41 of this section shall be effective unless and until such action is  
42 approved by the advisory board created under the provisions of  
43 Section 69-25-3, Mississippi Code of 1972.

44 **SECTION 2.** Section 69-24-27, Mississippi Code of 1972, is  
45 amended as follows:

46 69-24-27. The commissioner and State Chemist may adopt,  
47 amend or repeal rules and regulations relating to sampling,  
48 analytical methods, forms, minimum percentage, soil or plant  
49 amending ingredients, exempted materials, investigational  
50 allowances, definitions, records, labels, labeling, liability  
51 bond, misbranding, mislabeling and the distribution of soil or  
52 plant amendments as may be necessary to carry into effect the full  
53 intent and meaning of this chapter.

54 **SECTION 3.** Section 75-27-19, Mississippi Code of 1972, is  
55 amended as follows:

56 75-27-19. The director may adopt, amend or repeal  
57 regulations for the enforcement of this article, which regulations  
58 shall have the force and effect of law. These regulations may  
59 include (1) standards of net weight, measure, or count, and  
60 reasonable standards of fill, for any commodity in package form,  
61 (2) rules governing the technical and reporting procedures to be

62 followed and the report and record forms and marks of approval and  
63 rejection to be used by inspectors of weights and measures in the  
64 discharge of their official duties, and (3) exemptions from the  
65 sealing or marking requirements of Section 75-27-31 with respect  
66 to weights and measures of such character or size that such  
67 sealing or marking would be inappropriate, impracticable, or  
68 damaging to the apparatus in question. These regulations shall  
69 include specifications, tolerances, and regulations for weights  
70 and measures of the character of those specified in Section  
71 75-27-23, designed to eliminate from use, without prejudice to  
72 apparatus that conforms as closely as practicable to the official  
73 standards, those (1) that are not accurate, (2) that are of such  
74 construction that they are faulty-that is, that are not reasonably  
75 permanent in their adjustment or will not repeat their indications  
76 correctly, or (3) that facilitate the perpetration of fraud. The  
77 specifications, tolerances, and regulations for commercial  
78 weighing and measuring devices, together with amendments thereto,  
79 as recommended by the National Institute of Standards and  
80 Technology and published in Handbook 44 and supplements thereto,  
81 or in any publication revising or superseding Handbook 44, shall  
82 be the specifications, tolerances, and regulations for commercial  
83 weighing and measuring devices of the State of Mississippi, except  
84 insofar as specifically modified, amended, or rejected by a  
85 regulation issued by the director. For the purposes of this  
86 article, apparatus shall be deemed to be "correct" when it  
87 conforms to all applicable requirements promulgated as specified  
88 in this section; other apparatus shall be deemed to be  
89 "incorrect." The division shall levy no charges or fees for the  
90 field tests or inspections made under this article; however, the  
91 director shall adopt a schedule of fees for calibration and  
92 testing services provided by the State Metrology Laboratory. Fees  
93 collected for such calibration and testing shall be deposited in  
94 the State Treasury in the special fund for the Department of

95 Agriculture and Commerce. The director shall require persons  
96 installing scales with a weight capacity of ten thousand (10,000)  
97 pounds or more to secure a permit for each such scale installed,  
98 establish a fee not to exceed Fifty Dollars (\$50.00) for such  
99 permit and require such person to supply the director with scale  
100 and scale foundation blueprints and specifications for each  
101 installation before installation of the scale. Applications for  
102 permit shall be made on forms prescribed and furnished by the  
103 director. The director shall establish and adopt scale pit and  
104 approach specifications for scales with a capacity of ten thousand  
105 (10,000) pounds or more. However, weighing devices with a  
106 capacity of ten thousand (10,000) pounds or more used to weigh  
107 road construction materials shall be exempt from the requirements  
108 of this article. Such weighing devices for road construction  
109 materials shall have a tolerance of one-half of one percent (1/2  
110 of 1%) in lieu of the requirements of Handbook 44 and shall be  
111 regulated by the Mississippi Department of Transportation instead  
112 of the Department of Agriculture and Commerce. For purposes of  
113 this section, the term "road construction materials" shall  
114 include, but not be limited to, sand, gravel, asphalt, fill dirt,  
115 topsoil and concrete. The term "road construction materials"  
116 shall not include timber or timber products.

117 **SECTION 4.** Section 75-33-5, Mississippi Code of 1972, is  
118 amended as follows:

119 75-33-5. \* \* \*

120 \* \* \* The commissioner may adopt, amend or repeal rules and  
121 regulations for the \* \* \* administration and enforcement of this  
122 article \* \* \*.

123 \* \* \* The commissioner shall not promulgate any rules and  
124 regulations which are inconsistent with the rules and regulations  
125 of the U.S. Department of Agriculture governing the businesses  
126 covered by this article.

127           \* \* \* Every licensee \* \* \* shall be furnished a copy of such  
128 rules and regulations when a license is issued. The commissioner  
129 shall prescribe and supply the forms to be used to comply with  
130 this article.

131           **SECTION 5.** This act shall take effect and be in force from  
132 and after its passage.