

By: Representatives Morgan, Dixon

To: Agriculture

HOUSE BILL NO. 1333

1 AN ACT TO AMEND SECTIONS 41-3-18, 75-29-19, 75-29-21 AND
 2 75-29-603, MISSISSIPPI CODE OF 1972, TO TRANSFER THE AUTHORITY OF
 3 INSPECTING HONEY AND HONEY PRODUCTS FROM THE STATE DEPARTMENT OF
 4 HEALTH TO THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE;
 5 TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE AND COMMERCE TO
 6 ESTABLISH INSPECTION FEES FOR THE INSPECTION OF HONEY AND HONEY
 7 PRODUCTS; TO BRING FORWARD SECTIONS 75-29-601, 75-29-604,
 8 75-29-605 AND 75-29-607, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE
 9 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 41-3-18, Mississippi Code of 1972, is
 12 amended as follows:

13 41-3-18. (1) The board shall assess fees in the following
 14 amounts and for the following purposes:

15 (a) Food establishment annual permit fee, based on the
 16 assessment factors of the establishment as follows:

17	Assessment Category 1.....	\$ 30.00
18	Assessment Category 2.....	100.00
19	Assessment Category 3.....	150.00
20	Assessment Category 4.....	200.00

21 (b) Private water supply approval fee.....\$ 10.00



22 The board may develop such reasonable standards, rules and
23 regulations to clearly define each assessment category.
24 Assessment categories shall be based upon the factors to the
25 public health implications of the category and type of food
26 preparation being utilized by the food establishment, utilizing
27 the model Food Code of 1995, or as may be amended by the federal
28 Food and Drug Administration.

29 Any increase in the fees charged by the board under this
30 subsection shall be in accordance with the provisions of Section
31 41-3-65.

32 (2) The fee authorized under subsection (1) (a) of this
33 section shall not be assessed for:

34 (a) Food establishments operated by public schools,
35 public junior and community colleges, or state agencies or
36 institutions, including, without limitation, the state
37 institutions of higher learning and the State Penitentiary; and

38 (b) Persons who make infrequent casual sales of honey
39 and who pack or sell less than five hundred (500) gallons of honey
40 per year, and those persons shall not be inspected by the * * *
41 Mississippi Department of Agriculture and Commerce unless
42 requested by the producer. However, if a producer requests an
43 inspection or if a person makes infrequent casual sales of honey
44 and who pack or sell more than five hundred (500) gallons of honey
45 per year, those persons shall pay the inspection fee established
46 by the Mississippi Department of Agriculture and Commerce.



47 (3) The fee authorized under subsection (1)(b) of this
48 section shall not be assessed for private water supplies used by
49 foster homes licensed by the Department of Human Services.

50 **SECTION 2.** Section 75-29-19, Mississippi Code of 1972, is
51 amended as follows:

52 75-29-19. The State Board of Health is hereby charged with
53 the enforcement of this chapter. However, as it relates to the
54 regulation and sale of honey, the Mississippi Department of
55 Agriculture and Commerce shall be charged with the enforcement of
56 such practices. The State Board of Health shall have the
57 authority to establish such rules and regulations not inconsistent
58 with this chapter as will best carry its provisions into effect,
59 unless regulation of food as defined in this chapter is otherwise
60 authorized by law.

61 **SECTION 3.** Section 75-29-21, Mississippi Code of 1972, is
62 amended as follows:

63 75-29-21. In the discretion of the State Board of Health, or
64 in the case of honey, the Mississippi Department of Agriculture
65 and Commerce, samples or specimens for analysis may be taken by
66 duly qualified and sworn inspectors. Whenever practicable,
67 samples shall be taken by representatives of the board. The
68 Office of the State Chemist shall have primary responsibility for
69 providing chemical, physical and microbiological analytical
70 services in support of regulatory programs provided for herein.



71 **SECTION 4.** Section 75-29-601, Mississippi Code of 1972, is
72 brought forward as follows:

73 75-29-601. (1) Every container of honey or honey products
74 sold, offered or exposed for sale, by an individual, firm,
75 organization or corporation in the State of Mississippi shall have
76 on the outside of each container a paper label, permanent type
77 stamped imprint or embossed material on the container itself,
78 plainly printed in the English language truly certifying the net
79 contents of the container, the name, brand, name and address of
80 the person or processor offering such honey or honey products for
81 sale, and a true statement of the contents contained therein.

82 (2) It shall be unlawful for any individual, firm,
83 organization or corporation to label and/or sell, offer for sale
84 or expose for sale at the retail level of trade any product as
85 "pure honey" that does not meet the minimum requirements
86 established by the Mississippi Department of Agriculture and
87 Commerce. Artificial honey products not of one hundred percent
88 (100%) pure honey shall be labeled in the English language as
89 "artificial honey," and the word "artificial" shall be as
90 prominently shown as the word "honey," and a list of the
91 ingredients in the products and a percent by weight of each
92 ingredient shall be shown on the label.

93 (3) It shall be unlawful for any manufacturer or distributor
94 of honey or honey products to use a fictitious name or address on
95 the container label required herein.



96 **SECTION 5.** Section 75-29-603, Mississippi Code of 1972, is
97 amended as follows:

98 75-29-603. (1) The Mississippi Department of Agriculture
99 and Commerce is hereby charged with the responsibility of
100 enforcing this article and the Commissioner of Agriculture and
101 Commerce or his representative shall be furnished samples of honey
102 or honey products from the individual, firm, organization or
103 corporation, upon request, and shall have such products analyzed
104 by the State Chemist.

105 (2) The Commissioner of Agriculture and Commerce is
106 authorized, in his discretion, to issue an order to stop the sale
107 or distribution of any honey or honey products found to be in
108 violation of this article. Upon written notice by the
109 commissioner to the manufacturer or distributor of the honey or
110 honey products sold in violation of this article, such honey or
111 honey products shall be picked up by the manufacturer or
112 distributor of such products and the buyer of the honey or honey
113 products sold in violation of this article shall be refunded the
114 purchase price by the manufacturer or distributor.

115 (3) The Commissioner of Agriculture and Commerce of the
116 State of Mississippi is hereby authorized and empowered, in his
117 discretion, to make and promulgate rules and regulations as may be
118 necessary to carry out the provisions of this article.

119 (4) The Commissioner of Agriculture and Commerce is
120 authorized to establish fees for the inspection of honey or honey



121 products sold within the state in a manner consistent with the
122 categorical inspection fees assessed by the State Board of Health
123 under Section 41-3-18.

124 **SECTION 6.** Section 75-29-604, Mississippi Code of 1972, is
125 brought forward as follows:

126 75-29-604. (1) When a written complaint is made against a
127 person for violation of this article, or any of the rules or
128 regulations, the commissioner, or his designee, shall conduct a
129 full evidentiary hearing. The complaint shall be in writing and
130 shall be filed in the office of the department. The commissioner
131 shall serve the accused with a copy of the complaint and a summons
132 by any of the methods set forth in Rule 4 of the Mississippi Rules
133 of Civil Procedure or by certified mail. Within thirty (30) days
134 after receipt of the summons and a copy of the complaint, the
135 accused shall file a written answer with the department. Upon
136 receipt of the written answer of the accused, the matter shall be
137 set for hearing before the commissioner within a reasonable time.
138 If the accused fails to file an answer within the thirty (30)
139 days, the commissioner may enter an order by default against the
140 accused. The commissioner may issue subpoenas to require the
141 attendance of witnesses and the production of documents.
142 Compliance with the subpoenas may be enforced by any court of
143 general jurisdiction in this state. The testimony of witnesses
144 shall be upon oath or affirmation, and they shall be subject to
145 cross-examination. The proceedings shall be recorded. If the



146 commissioner determines that the complaint lacks merit, he may
147 dismiss same. If he finds that there is substantial evidence
148 showing that a violation has occurred, he may impose any or all of
149 the following penalties upon the accused: (a) levy a civil
150 penalty in the amount of no more than Five Thousand Dollars
151 (\$5,000.00) for each violation; (b) issue a stop sale order; (c)
152 require the accused to relabel the honey or honey products that he
153 is offering or exposing for sale which is not labeled in
154 accordance with this article; or (d) seize any lot of honey or
155 honey products that is not in compliance with this article and
156 destroy, sell or otherwise dispose of the honey and honey products
157 and apply the proceeds of the sale to the costs and civil
158 penalties levied with the balance to be paid to the accused. The
159 decision of the commissioner, or his designee, shall be in
160 writing, and it shall be delivered to the accused by certified
161 mail.

162 (2) Either the accused or the department may appeal the
163 decision of the commissioner to the circuit court of the county of
164 residence of the accused or, if the accused is a nonresident of
165 the State of Mississippi, to the Circuit Court of the First
166 Judicial District of Hinds County, Mississippi. The appellant
167 shall have the record transcribed and file it with the circuit
168 court. The appeal shall otherwise be governed by all applicable
169 laws and rules affecting appeals to circuit court. If no appeal



170 is perfected within the required time, the decision of the
171 commissioner shall then become final.

172 (3) The decision of the circuit court may then be appealed
173 by either party to the Mississippi Supreme Court in accordance
174 with the existing law and rules affecting such appeals.

175 (4) When any violation of this article, or the rules and
176 regulations occurs, or is about to occur, that presents a clear
177 and present danger to the public health, safety or welfare
178 requiring immediate action, any of the department's field
179 inspectors, and any other persons authorized by the commissioner,
180 may issue an order to be effective immediately before notice and a
181 hearing that imposes any or all of the following penalties against
182 the accused: (a) issue a stop sale order; (b) require the accused
183 to relabel any honey or honey products that he is offering or
184 exposing for sale and which is not labeled in accordance with this
185 article; or (c) seize any lot of honey or honey products that is
186 not in compliance with this article and destroy, sell or otherwise
187 dispose of the honey or honey products and apply the proceeds of
188 the sale to the cost and any civil penalties levied with the
189 balance to be paid to the accused. The order shall be served upon
190 the accused in the same manner that the summons and complaint may
191 be served upon him. The accused shall then have thirty (30) days
192 after service of the order upon him within which to request an
193 informal administrative review before the Director of the Bureau
194 of Regulatory Services in the department, or his designee, who



195 shall act as reviewing officer. If the accused makes a timely
196 request, the reviewing officer shall conduct an informal
197 administrative review within ten (10) days after the request is
198 made. If the accused does not request an informal administrative
199 review within the thirty (30) days, then he will be deemed to have
200 waived his right to the review. At the informal administrative
201 review, subpoena power shall not be available, witnesses shall not
202 be sworn nor be subject to cross-examination and there shall be no
203 court reporter or record made of the proceedings. Each party may
204 present its case in the form of documents, oral statements or any
205 other method. The rules of evidence shall not apply. The
206 reviewing officer's decision shall be in writing, and it shall be
207 delivered to the parties by certified mail. If either party is
208 aggrieved by the order of the reviewing officer, he may appeal to
209 the commissioner for a full evidentiary hearing in accordance with
210 the procedures in subsection (1) of this section, except that
211 there shall be no requirement for a written complaint or answer to
212 be filed by the parties. The appeal shall be perfected by filing
213 a notice of appeal with the commissioner within thirty (30) days
214 after the order of the reviewing officer is served on the
215 appealing party. The hearing before the commissioner, or his
216 designee, shall be held within a reasonable time after the appeal
217 has been perfected. Failure to perfect an appeal within the
218 allotted time shall be deemed a waiver of such right.



219 (5) The Commissioner may publish the names and addresses of
220 anyone who violates this article.

221 **SECTION 7.** Section 75-29-605, Mississippi Code of 1972, is
222 brought forward as follows:

223 75-29-605. Any person violating the provisions of this
224 article shall be guilty of a misdemeanor and upon conviction shall
225 be punished by a fine not less than One Hundred Dollars (\$100.00)
226 nor more than Five Hundred Dollars (\$500.00) or by imprisonment
227 for not more than ninety (90) days, or by both such fine and
228 imprisonment; and each such violation shall constitute a separate
229 offense.

230 **SECTION 8.** Section 75-29-607, Mississippi Code of 1972, is
231 brought forward as follows:

232 75-29-607. Distributors are required to keep records of the
233 names and addresses of the manufacturers whose honey they
234 distribute for a period of three (3) years and to provide such
235 information to the commissioner upon request in order to aid the
236 commissioner in locating the source of adulterated honey.

237 **SECTION 9.** This act shall take effect and be in force from
238 and after July 1, 2018.

