

By: Senator(s) Younger

To: Agriculture; Judiciary,  
Division B

SENATE BILL NO. 2157

1 AN ACT TO CREATE NEW SECTION 69-1-401, MISSISSIPPI CODE OF  
2 1972, TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE AND COMMERCE TO  
3 ISSUE ADMINISTRATIVE SUBPOENAS FOR PROCEEDINGS BEFORE THE  
4 DEPARTMENT; TO PERMIT THE COMMISSIONER OR ANY DESIGNATED AGENT  
5 ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE  
6 EVIDENCE; TO CREATE NEW SECTION 69-1-403, MISSISSIPPI CODE OF  
7 1972, TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND  
8 COMMERCE TO HAVE ISSUED BY THE CIRCUIT COURT AND TO EXECUTE  
9 ADMINISTRATIVE INSPECTION AND SEARCH WARRANTS FOR PREMISES OF  
10 ENTITIES OR INDIVIDUALS THAT DEPARTMENT LICENSES OR REGULATES; TO  
11 PRESCRIBE THE CIRCUMSTANCES BY WHICH THE DEPARTMENT MAY FACILITATE  
12 THE ISSUANCE AND EXECUTION OF ADMINISTRATIVE INSPECTION AND SEARCH  
13 WARRANTS; TO AMEND SECTION 69-5-31, MISSISSIPPI CODE OF 1972, TO  
14 EXEMPT OR MAINTAIN CONFIDENTIALITY OF PERSONAL IDENTIFYING  
15 INFORMATION OF LAW ENFORCEMENT OFFICERS HIRED BY THE DEPARTMENT;  
16 TO AMEND SECTION 69-29-1, MISSISSIPPI CODE OF 1972, TO ALLOW  
17 ARRESTS BY INVESTIGATORS OF THE MISSISSIPPI AGRICULTURAL &  
18 LIVESTOCK THEFT BUREAU FOR MATTERS AUTHORIZED UNDER THE  
19 CONSTITUTIONAL AND GENERAL LAWS OF THE STATE AND TO PERMIT  
20 RETIRING INVESTIGATORS TO RETAIN SIDE ARM; TO AMEND SECTION  
21 69-42-1, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT FOR  
22 PRODUCTION OF ANNUAL REPORTS; TO AMEND SECTION 69-46-3,  
23 MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL MEETING VENUE FOR  
24 THE MISSISSIPPI LAND, WATER AND TIMBER RESOURCES BOARD MEETINGS;  
25 TO AMEND SECTION 75-44-29, MISSISSIPPI CODE OF 1972, TO PROVIDE  
26 THAT LIABILITY UNDER GRAIN BOND ISSUED UNDER GRAIN DEALERS LAW  
27 SHALL NOT BE LIMITED BY PAYMENT UNDER GRAIN WAREHOUSE LAW; TO  
28 AMEND SECTION 75-44-31, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
29 ANY BOND SHALL BE AVAILABLE FOR CLAIMS FILED UNDER THE GRAIN  
30 WAREHOUSE AND GRAIN DEALERS LAW; TO AMEND SECTION 75-44-35,  
31 MISSISSIPPI CODE OF 1972, TO CLARIFY LANGUAGE RELATED TO FILING A  
32 CLAIM FOR FAILURE TO DELIVER GRAIN; TO AMEND SECTION 75-45-305,  
33 MISSISSIPPI CODE OF 1972, TO CLARIFY HEARING PROCEDURES RELATED TO  
34 SURETY BOND FOR GRAIN DEALERS; TO AMEND SECTION 75-45-311,



35 MISSISSIPPI CODE OF 1972, TO CLARIFY THE PROCEDURE FOR GRAIN  
36 PRODUCERS TO NOTIFY THE COMMISSIONER IN THE EVENT OF GRAIN  
37 DEALER'S FAILURE TO PAY; TO REPEAL SECTIONS 69-41-1, 69-41-3,  
38 69-41-5, 69-41-7, 69-41-9, 69-41-11, 69-41-13 AND 69-41-19,  
39 MISSISSIPPI CODE OF 1972, WHICH ARE PROVISIONS ESTABLISHING AND  
40 GOVERNING THE ADMINISTRATION OF THE "MISSISSIPPI AGRIBUSINESS  
41 COUNCIL ACT OF 1993"; AND FOR RELATED PURPOSES.

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

43 **SECTION 1.** The following shall be codified as Section  
44 69-1-401, Mississippi Code of 1972, is created as follows:

45 69-1-401. (1) The commissioner shall have the power to  
46 issue subpoenas and subpoena duces tecum to compel the attendance  
47 of witnesses and the production of documents, papers, books,  
48 records and other evidence in a hearing or proceeding before him  
49 in any matter over which he has jurisdiction.

50 (2) The commissioner or any agent designated by him or her,  
51 may administer oaths and affirmations, examine witnesses and  
52 receive evidence. The attendance of witnesses and the production  
53 of evidence may be required from any place in the state at any  
54 designated place of hearing.

55 (3) (a) If any person served with a subpoena to give  
56 testimony, or to produce evidence as required thereby, a circuit  
57 court judge in the county in which the hearing or proceeding is to  
58 occur shall, upon application and proof of such refusal, make an  
59 order awarding process of subpoena or subpoena duces tecum, for  
60 the witness to appear before the commissioner and to give  
61 testimony, and to produce evidence as required thereby. Upon  
62 filing the order in the office of the clerk of the court, the  
63 clerk shall issue process of subpoena, as directed, under the seal



64 of the court, requiring the person to whom it is directed, to  
65 appear at the time and place therein designated.

66 (b) If any person served with any subpoena issued by  
67 the circuit court shall refuse to obey the same, or to give  
68 testimony, or to produce evidence as required thereby, the  
69 commissioner may apply to the circuit court for an order of  
70 contempt.

71 **SECTION 2.** The following shall be codified as Section  
72 69-1-403, Mississippi Code of 1972, is created as follows:

73 69-1-403. (1) If the Mississippi Department of Agriculture  
74 and Commerce is denied access to records or authority to inspect  
75 the premises of entities or individuals which the Department  
76 licenses or regulates and for which it has statutory authority to  
77 inspect and access said premises and documents, the department may  
78 apply to the circuit court of the county in which the premises and  
79 documents are located for an administrative inspection and search  
80 warrant.

81 (2) Issuance and execution of administrative inspection and  
82 search warrants for the department shall be as follows:

83 (a) A circuit court judge, upon proper oath or  
84 affirmation showing probable cause, may issue warrants for the  
85 purpose of conducting administrative inspections for matters set  
86 forth in subsection (1) of this section, and seizures of property  
87 appropriate to the inspections. For purposes of the issuance of  
88 administrative inspection warrants, probable cause exists upon



89 showing a valid public interest in the effective enforcement of  
90 this article or rules thereunder, sufficient to justify  
91 administrative inspection of the area, premises, building or  
92 conveyance in the circumstances specified in the application for  
93 the warrant. All such warrants shall be served during normal  
94 business hours;

95 (b) A search warrant shall be issued only upon an  
96 affidavit of a person having knowledge or information of the facts  
97 alleged, sworn to before the circuit court judge and establishing  
98 the grounds for issuing the warrant. If the judge is satisfied  
99 that grounds for the application exist or that there is probable  
100 cause to believe they exist, he or she shall issue a warrant  
101 identifying the area, premises, building or conveyance to be  
102 searched, the purpose of the search, and, if appropriate, the type  
103 of property to be searched, if any. The warrant shall:

104 (i) State the grounds for its issuance and the  
105 name of each person whose affidavit has been taken in support  
106 thereof;

107 (ii) Be directed to a department employee to serve  
108 and execute;

109 (iii) Command the person to whom it is directed to  
110 inspect the area, premises, building or conveyance identified for  
111 the purpose specified, and if appropriate, direct the seizure of  
112 the property specified;



113 (iv) Identify the item or types of property to be  
114 seized, if any; and

115 (v) Direct that it be served and designate the  
116 judge or magistrate to whom it shall be returned;

117 (c) A warrant issued pursuant to this section must be  
118 executed and returned within ten (10) days of its date unless,  
119 upon a showing of a need for additional time, the court orders  
120 otherwise. If property is seized pursuant to a warrant, a copy  
121 shall be given to the person from whom or from whose premises the  
122 property is taken, together with a receipt for the property taken.  
123 The return of the warrant shall be made promptly, accompanied by a  
124 written inventory of any property taken. The inventory shall be  
125 made in the presence of the person executing the warrant and of  
126 the person from whose possession or premises the property was  
127 taken, if present, or in the presence of at least one (1) credible  
128 person other than the person executing the warrant. A copy of the  
129 inventory shall be delivered to the person from whom or from whose  
130 premises the property was taken and to the applicant for the  
131 warrant; and

132 (d) The judge who has issued a warrant shall attach  
133 thereto a copy of the return and all papers returnable in  
134 connection therewith and file them with the clerk of the court for  
135 the judicial district in which the inspection was made.

136 (3) When authorized by an administrative inspection warrant  
137 issued in accordance with the conditions imposed in this section,



138 an officer or employee designated by the department, upon  
139 presenting the warrant and appropriate credentials to the owner,  
140 operator or agent in charge, may enter the premises for the  
141 purpose of conducting an administrative inspection related to an  
142 investigation, proceeding or hearing of the department.

143 (4) When authorized by an administrative inspection warrant,  
144 an officer or employee designated by the department may:

145 (a) Seize, inspect and copy records required by this  
146 article to be kept;

147 (b) Inspect, within reasonable limits and in a  
148 reasonable manner, controlled premises and all pertinent  
149 equipment, finished and unfinished material, containers and  
150 labeling found therein, and, except as provided in subsection (5)  
151 of this section, all other things therein, including records,  
152 files, papers, processes, controls and facilities bearing on  
153 violation of this article; and

154 (c) Seize or prepare an inventory of any stock of any  
155 regulated substances or items therein and obtain samples thereof.

156 (5) This section does not prevent the inspection without a  
157 warrant of books and records pursuant to an administrative  
158 subpoena, nor does it prevent entries and administrative  
159 inspections, including seizures of property, without a warrant:

160 (a) If the owner, operator or agent in charge of the  
161 controlled premises consents;



162 (b) In situations presenting imminent danger to health  
163 or safety;

164 (c) In situations involving inspection of conveyances  
165 if there is reasonable cause to believe that the mobility of the  
166 conveyance makes it impracticable to obtain a warrant;

167 (d) In any other exceptional or emergency circumstance  
168 where time or opportunity to apply for a warrant is lacking; or

169 (e) In all other situations in which a warrant is not  
170 constitutionally required.

171 (6) Any officer acting under such warrant shall, as soon as  
172 practical, after entering the premises, identify himself and give  
173 the reasons and authority for his entrance upon the premises.

174 **SECTION 3.** Section 69-5-31, Mississippi Code of 1972, is  
175 amended as follows:

176 69-5-31. (1) The Department of Agriculture and Commerce is  
177 authorized to hire and designate area law enforcement officers on  
178 a contractual basis to provide security and to enforce all laws of  
179 the State of Mississippi on the Mississippi State Fairgrounds  
180 Complex. All officers must have attended and satisfactorily  
181 completed the training course required for law enforcement  
182 officers at the Law Enforcement Officer's Training Academy or an  
183 equivalent facility. All officers must be current with this  
184 certification. A complete record of all law enforcement training  
185 of each employee will be maintained in each employee's record of  
186 employment. Furthermore, the Department of Agriculture and



187 Commerce may enter into a contract with any certified law  
188 enforcement officer to provide security to the Department of  
189 Agriculture and Commerce with jurisdiction to enforce all laws of  
190 the State of Mississippi on property known as the "Mississippi  
191 State Fairgrounds Complex" and any and all of its outlying  
192 buildings and property.

193 (2) (a) All officers while in performance of their duty on  
194 the premises or at any of the facilities at the Mississippi State  
195 Fairgrounds Complex under the direction or control of the  
196 Department of Agriculture and Commerce and public property  
197 immediately adjacent to such facilities shall:

198 (i) Be required to dress in uniforms prescribed by  
199 the respective law enforcement agency by which he or she is  
200 employed; and

201 (ii) Be authorized to carry weapons.

202 (b) Employees designated as officers shall be duly  
203 sworn and vested with authority to bear arms and make arrests, and  
204 shall exercise primarily the responsibilities of the prevention  
205 and detection of crime, the apprehension of criminals, and the  
206 enforcement of the ordinances and policies of the Department of  
207 Agriculture and Commerce, a political subdivision of the State of  
208 Mississippi. Employees designated as such officers shall be  
209 considered law enforcement officers within the meaning of Section  
210 45-6-3.





211       (3) The identities and personal information of the officers  
212 under the authority of this section are confidential and shall not  
213 be publicly disclosed by the department. All contracts entered  
214 under the authority of this section shall be exempt from  
215 disclosure under the Mississippi Public Records Act, prescribed  
216 under Section 25-61-1 et seq.

217       **SECTION 4.** Section 69-29-1, Mississippi Code of 1972, is  
218 amended as follows:

219       69-29-1. (1) (a) There is established the Mississippi  
220 Agricultural and Livestock Theft Bureau.

221       (b) The Commissioner of Agriculture and Commerce shall  
222 appoint a director of the Mississippi Agricultural and Livestock  
223 Theft Bureau. Such director shall have at least five (5) years of  
224 law enforcement experience. Such director shall be responsible  
225 solely to the supervision of the Commissioner of Agriculture and  
226 Commerce and to no other person or entity. Such director may be  
227 discharged only for just cause shown.

228       (c) The director may employ twelve (12) agricultural  
229 and livestock theft investigators. Each investigator shall be  
230 certified as a law enforcement officer, successfully completing at  
231 least a nine-week training course, in accordance with Section  
232 45-6-11. The curriculum for the training of constables shall not  
233 be sufficient for meeting the certification requirements of this  
234 paragraph. In the selection of investigators under this section,



235 preference shall be given to persons who have previous law  
236 enforcement experience.

237 (d) The director appointed under this section, under  
238 the direction, control and supervision of the commissioner, and  
239 the investigators employed under this section shall perform only  
240 the duties described in subsection (2) of this section and shall  
241 not be assigned any other duties.

242 (2) The director appointed under this section and the  
243 investigators employed under this section shall have the following  
244 powers, duties and authority:

245 (a) To enforce all of the provisions of Sections  
246 69-29-9 and 69-29-11, and particularly those portions requiring  
247 persons transporting livestock to have a bill of sale in their  
248 possession; to make investigations of violations of such sections  
249 and to arrest persons violating same;

250 (b) To enforce all of the laws of this state enacted  
251 for the purpose of preventing the theft of livestock, poultry,  
252 timber and agricultural, aquacultural and timber products and  
253 implements; to make investigations of violations thereof and to  
254 arrest persons violating same;

255 (c) To cooperate with all regularly constituted law  
256 enforcement officers relative to the matters herein set forth;

257 (d) To serve warrants and other process emanating from  
258 any court of lawful jurisdiction, including search warrants, in  
259 all matters herein set forth;



260 (e) To carry proper credentials evidencing their  
261 authority, which shall be exhibited to any person making demand  
262 therefor;

263 (f) To make arrests with or without warrant in all  
264 matters \* \* \* authorized under the constitutional and general laws  
265 of this state;

266 (g) To handle the registration of brands of cattle and  
267 livestock;

268 (h) To investigate, prevent, apprehend and arrest those  
269 persons anywhere in the state who are violating any of the laws  
270 administered by the Department of Agriculture and Commerce,  
271 including, but not limited to, all agriculture-related crimes;

272 (i) To access and examine records of any person,  
273 business or entity that harvests, loads, carries, receives or  
274 manufactures timber products as defined in this section. Each  
275 such person or entity shall permit the director or any  
276 investigator of the Mississippi Agricultural and Livestock Theft  
277 Bureau to examine records of the sale, transfer or purchase of  
278 timber or timber products, including, but not limited to,  
279 contracts, load tickets, settlement sheets, drivers' logs,  
280 invoices, checks and any other records or documents related to an  
281 ongoing investigation of the Mississippi Agricultural and  
282 Livestock Theft Bureau;

283 (j) To conduct training for law enforcement regarding  
284 laws enforced by the bureau and to assist any other law



285 enforcement agencies in responding to matters that may be related  
286 to agriculture and commerce in the State of Mississippi and in  
287 cases of natural disasters or other disasters to respond as needed  
288 or as requested by other agencies.

289 (3) The Commissioner of Agriculture and Commerce shall  
290 furnish such investigators with such vehicles, equipment and  
291 supplies as may be necessary. All expenses of same, and all other  
292 expenses incurred in the administration of this section, shall be  
293 paid from such appropriation as may be made by the Legislature.

294 (4) Any director or investigator of the Agricultural and  
295 Livestock Theft Bureau who retires for superannuation or for  
296 reasons of disability under the Public Employees' Retirement  
297 System, upon his or her request, may be allowed by the  
298 commissioner to retain, as his or her personal property, one (1)  
299 side arm which was issued to him or her during his or her service.

300 ( \* \* \*5) The Mississippi Department of Revenue and its  
301 agents and employees shall cooperate with such investigators by  
302 furnishing to them information as to any possible or suspected  
303 violations of any of the laws mentioned herein, including  
304 specifically Section 69-29-27, and in any other lawful manner.

305 ( \* \* \*6) The conservation officers of the Department of  
306 Wildlife, Fisheries and Parks are authorized to cooperate with and  
307 assist the agricultural and livestock theft investigators in the  
308 enforcement and apprehension of violators of laws regarding  
309 agricultural and livestock theft.



310 ( \* \* \*7) The Mississippi Forestry Commission employees are  
311 excluded from any timber and timber products theft investigative  
312 responsibilities except when technical expertise is needed and  
313 requested through the State Forester or his designee.

314 ( \* \* \*8) For the purposes of this section, "timber product"  
315 means timber of all kinds, species or sizes, including, but not  
316 limited to, logs, lumber, poles, pilings, posts, blocks, bolts,  
317 cordwood and pulpwood, pine stumpwood, pine knots or other  
318 distillate wood, crossties, turpentine (crude gum), pine straw,  
319 firewood and all other products derived from timber or trees that  
320 have a sale or commercial value.

321 **SECTION 5.** Section 69-42-1, Mississippi Code of 1972, is  
322 amended as follows:

323 69-42-1. (1) For the purposes of this section, the  
324 following words shall have the meanings ascribed in this section  
325 unless the context otherwise requires:

326 (a) "Agribusiness" means any agricultural,  
327 aquacultural, horticultural, manufacturing, research and  
328 development or processing enterprise or enterprises.

329 (b) "Farmer" means a resident of Mississippi who  
330 engages or wishes to engage in the commercial production of crops  
331 on land in Mississippi. The term shall include individuals,  
332 partnerships and corporations.



333 (2) The Mississippi Development Authority shall develop and  
334 implement a program to stimulate growth in the agricultural  
335 industry for agribusiness concerns and farmers.

336 (3) The program developed and implemented by the Mississippi  
337 Development Authority under this section shall:

338 (a) Increase the availability of financial assistance  
339 available to agribusiness concerns and farmers;

340 (b) Provide incentives for agribusiness concerns and  
341 farmers which will encourage growth in the Mississippi  
342 agricultural industry;

343 (c) Assist new agribusiness concerns and farmers in  
344 developing and implementing business plans;

345 (d) Develop methods for increasing markets for the  
346 goods and services of agribusiness concerns and farmers;

347 (e) Work with public and private entities in  
348 disseminating information about public and private programs that  
349 benefit agribusiness concerns and farmers; and

350 (f) Identify sources of financial assistance available  
351 to agribusiness concerns and farmers and assist agribusiness  
352 concerns and farmers with the preparation of applications for  
353 assistance from public and private sources.

354 \* \* \*

355 **SECTION 6.** Section 69-46-3, Mississippi Code of 1972, is  
356 amended as follows:



357           69-46-3. (1) There is created the Mississippi Land, Water  
358 and Timber Resources Board, hereinafter referred to as "the  
359 board," for the purpose of assisting Mississippi agricultural  
360 industry in the development, marketing and distribution of  
361 agricultural products.

362           (2) The board shall be composed of the following members:

363                   (a) The Chairman of the Senate Agriculture Committee,  
364 or a member of the Senate Agriculture Committee designated by the  
365 chairman, as a nonvoting member;

366                   (b) The Chairman of the House of Representatives  
367 Agriculture Committee or a member of the House of Representatives  
368 Agriculture Committee designated by the chairman, as a nonvoting  
369 member;

370                   (c) The Chairman of the Senate Forestry Committee, or a  
371 member of the Senate Forestry Committee designated by the  
372 chairman, as a nonvoting member;

373                   (d) The Executive Director of the Mississippi  
374 Development Authority, or his designee;

375                   (e) The Commissioner of the Mississippi Department of  
376 Agriculture and Commerce, or his designee;

377                   (f) The President of the Mississippi Farm Bureau  
378 Federation, or his designee;

379                   (g) The Director of the Cooperative Extension Service  
380 at Mississippi State University, or his designee;



381 (h) The Executive Director of the Agribusiness and  
382 Natural Resource Development Center at Alcorn State University, or  
383 his designee;

384 (i) The Director of the Agricultural Finance Division  
385 of the Mississippi Development Authority, or his designee;

386 (j) The Director of the Agriculture Marketing Division  
387 of the Mississippi Department of Agriculture and Commerce, or his  
388 designee;

389 (k) The Executive Director of the Mississippi Forestry  
390 Commission, or his designee; and

391 (l) Three (3) individuals appointed by the Governor who  
392 are active producers of Mississippi land, water or timber  
393 commodities. The Governor shall appoint one (1) such person from  
394 each Supreme Court district.

395 (3) The Executive Director of the Mississippi Development  
396 Authority and the Commissioner of the Mississippi Department of  
397 Agriculture and Commerce shall serve as cochairmen of the board.

398 (4) The board shall meet at least once each calendar quarter  
399 at the call of the cochairmen. A majority of the members of the  
400 board shall constitute a quorum at all meetings. An affirmative  
401 vote of a majority of the members present and voting is required  
402 in the adoption of any actions taken by the board. All members  
403 must be notified, in writing, of all regular and special meetings  
404 of the board, which notices must be mailed at least ten (10) days  
405 before the dates of the meetings. All meetings shall take place





406 at the State Capitol in Jackson, Mississippi, or at a location to  
407 be determined by the cochairmen. The board shall provide a copy  
408 of the minutes of each of its meetings to the Chairman of the  
409 Senate Agriculture Committee and the Chairman of the House of  
410 Representatives Agriculture Committee.

411 (5) Members of the board shall not receive compensation.  
412 However, each member may be paid travel expenses and meals and  
413 lodging expenses as provided in Section 25-3-41, for such expenses  
414 incurred in furtherance of their duties. Travel expenses and  
415 meals and lodging expenses and other necessary expenses incurred  
416 by the board shall be paid out of funds appropriated to the  
417 Mississippi Development Authority.

418 (6) In carrying out the provisions of the Mississippi Land,  
419 Water and Timber Resources Act, the board may utilize the  
420 services, facilities and personnel of all departments, agencies,  
421 offices and institutions of the state, and all such departments,  
422 agencies, offices and institutions shall cooperate with the board  
423 in carrying out the provisions of such act.

424 **SECTION 7.** Section 75-44-29, Mississippi Code of 1972, is  
425 amended as follows:

426 75-44-29. (1) Before any person is granted a license  
427 pursuant to Section 75-44-23 such person shall give a bond to the  
428 commissioner executed by the grain warehouseman as principal and  
429 by a corporate surety licensed to do business in this state as a  
430 surety. The bond shall be in favor of the commissioner for the



431 benefit of all persons interested, their legal representatives,  
432 attorneys or assigns, conditioned upon the faithful compliance by  
433 the grain warehouseman with the provisions of this chapter, the  
434 provision of the "Mississippi Grain Dealers Law of 1978,"  
435 authorized under Article 7, Title 75, Chapter 45, Mississippi Code  
436 of 1972, and the rules and regulations of the State Department of  
437 Agriculture and Commerce applicable thereto. The aggregate  
438 liability of the surety to all depositors or storers of grain  
439 under this chapter and to sellers of grain under the "Mississippi  
440 Grain Dealers Law of 1978" shall not exceed the sum of such bond.  
441 However, the liability under a bond additionally issued under the  
442 "Mississippi Grain Dealers Law of 1978" shall not be limited by  
443 payment under the bond required under this chapter. The bond may  
444 be cancelled at any time by the surety by giving written notice to  
445 the Commissioner of Agriculture and Commerce of its intention to  
446 cancel the bond and all liability thereunder shall terminate  
447 thirty-five (35) days after the mailing of such notice except that  
448 such notice shall not affect any claims arising under the bond,  
449 whether presented or not, before the effective date of the  
450 cancellation notice.

451 (2) In lieu of the bond required in subsection (1) of this  
452 section an applicant for a license may be a self-insurer by  
453 posting with the commissioner any of the following:

454 (a) Cash;



455 (b) Certificates of deposit from any bank or banking  
456 corporation insured by the Federal Deposit Insurance Corporation;

457 (c) Irrevocable letters of credit from any bank or  
458 banking corporation insured by the Federal Deposit Insurance  
459 Corporation;

460 (d) Federal treasury bills; or

461 (e) Notes, securities or bonds secured by the federal  
462 government or the State of Mississippi.

463 Self insurers shall post an amount equivalent to the amount  
464 of the bond required in Section 75-44-31.

465 **SECTION 8.** Section 75-44-31, Mississippi Code of 1972, is  
466 amended as follows:

467 75-44-31. (1) The amount of bond to be furnished for each  
468 grain warehouse shall be fixed at a rate of Twenty-five Cents  
469 (25¢) per bushel for the first one million (1,000,000) bushels of  
470 licensed capacity; Twenty Cents (20¢) per bushel for the next one  
471 million (1,000,000) bushels of licensed capacity; and Fifteen  
472 Cents (15¢) per bushel for all licensed capacity over two million  
473 (2,000,000) bushels; provided that in no case shall the amount of  
474 the bond be less than Fifteen Thousand Dollars (\$15,000.00) or  
475 more than One Million Dollars (\$1,000,000.00), except as  
476 prescribed in subsection (3) of this section. The licensed  
477 capacity shall be equal to the maximum number of bushels of grain  
478 that the grain warehouse can accommodate for storage. In no event  
479 shall the liability of the surety accumulate for each successive



480 license period during which this bond is in force, but shall be  
481 limited in the aggregate to the bond amount or changed by  
482 appropriate rider or endorsement.

483 (2) A grain warehouseman who is licensed or is applying for  
484 licenses to operate two (2) or more grain warehouses may give a  
485 single bond meeting the requirements of this chapter to cover all  
486 such grain warehouses within the state. In such cases all grain  
487 warehouses to be covered by the bond shall be deemed to be one (1)  
488 warehouse for purposes of determining the amount of bond required  
489 under subsection (1) of this section.

490 (3) In case of a deficiency in the net assets required by  
491 Section 75-44-21, there shall be added to the amount of the bond  
492 determined in accordance with subsection (1) of this section an  
493 amount equal to such deficiency. In any other case in which the  
494 commissioner finds that conditions exist which warrant requiring  
495 additional bond, there shall be added to the amount of bond such  
496 further amount as is determined to be reasonable by the  
497 commissioner.

498 (4) If a public grain warehouseman is licensed under this  
499 chapter and also conducts grain transactions under the  
500 "Mississippi Grain Dealers Law of 1978" authorized under Article  
501 7, Title 75, Chapter 45, Mississippi Code of 1972, the entire  
502 bond, in addition to any other required bond, shall be available  
503 to claims filed under this chapter and Title 75, Chapter 45,  
504 Mississippi Code of 1972.



505           **SECTION 9.** Section 75-44-35, Mississippi Code of 1972, is  
506 amended as follows:

507           75-44-35. (1) It shall be the duty of the grain  
508 warehouseman to deliver grain to the holder of a warehouse receipt  
509 within ten (10) days of the demand for the redemption of such  
510 receipt. In the event the grain warehouseman fails to deliver  
511 grain to the holder of a warehouse receipt within ten (10) days of  
512 the demand the holder of the warehouse receipt may make demand of  
513 the surety for payment under the bond. The surety has the  
514 responsibility to pay within fifteen (15) days following receipt  
515 by the surety of the notice of the demand for redemption. Any  
516 holder of a warehouse receipt issued by a grain warehouseman who  
517 has made demand for redemption of such receipt, which demand was,  
518 without lawful excuse, not satisfied within ten (10) days, shall  
519 notify the commissioner in writing and the holder shall have the  
520 right to \* \* \* file a claim with the commissioner against the  
521 grain warehouseman and the surety on the grain warehouseman's bond  
522 for payment of the market value of the grain represented by such  
523 warehouse receipt, such market value to be determined as of the  
524 date of the demand, plus legal interest accrued from the date of  
525 the demand. In the event the grain warehouseman is a self-insurer  
526 as provided in Section 75-44-29 the holder of a warehouse receipt  
527 shall have the right to \* \* \* file a claim with the commissioner  
528 against the grain warehouseman to the extent of the amount posted  
529 in lieu of the bond. \* \* \* The commissioner may also pay to the



530 holder of a warehouse receipt the amount of the market value of  
531 the grain provided that the grain warehouseman agrees to such  
532 payment \* \* \*.

533 (2) \* \* \* (a) Upon receipt of any claim, the commissioner  
534 shall provide written notice, via certified mail, return receipt  
535 requested, to the warehouseman and the corporate surety of the  
536 claims. The notice shall be effective upon receipt of proof of  
537 delivery or a receipt marked as refused delivery. If the  
538 commissioner determines, in his or her opinion, that there are or  
539 may be other competing claims as to bond, the commissioner shall  
540 give notice to other interested parties, which shall include the  
541 holders of outstanding and uncanceled receipts and scale tickets,  
542 any person having a claim for payment under Section 75-45-311, and  
543 any other person or party claiming any rights under the bond. The  
544 notice shall be deemed complete and sufficient upon the  
545 publication once per week for three (3) consecutive weeks in a  
546 newspaper of general circulation. The commissioner shall  
547 promulgate regulations which shall govern the procedure and  
548 process to be followed in the hearing. The regulations shall,  
549 among other things, set forth the county or counties, depending on  
550 whether the licensee is a warehouseman, grain dealer, individual  
551 or corporate entity or resident or nonresident, in which  
552 publication of notice hereunder shall be made.

553 (b) The commissioner or his designated representative,  
554 hereinafter "hearing officer," shall hear evidence and determine



555 whether a loss has occurred. Upon a determination that a loss has  
556 occurred, the hearing officer shall determine the date of the  
557 loss, the fair market value at the place of loss or in the region  
558 immediately surrounding the place of loss, whether payments should  
559 be made by the corporate surety and, if so, to what parties and in  
560 what amounts. Recovery under the bond shall be prorated by the  
561 hearing officer when the claims exceed the liability of the  
562 corporate surety under the bond. The burden of establishing the  
563 proration shall be on the corporate surety as a matter of defense.  
564 The hearing officer shall enter a written order determining the  
565 validity of claims under the bond and setting forth those  
566 claimants who are entitled to recover thereunder. The order shall  
567 be final, binding and conclusive on all interested parties. The  
568 order shall be sent by registered or certified mail to all  
569 interested parties who appeared in the hearing. Within thirty  
570 (30) days after the mailing of said order, any interested party,  
571 if dissatisfied with the order of the hearing officer, may appeal  
572 to the Chancery Court of the First Judicial District of Hinds  
573 County, Mississippi, by filing a written notice of appeal alleging  
574 the pertinent facts upon which the appeal is grounded. At the  
575 time of the filing of the appeal, the appellant shall give a bond  
576 for costs conditioned upon his prosecution of the appeal without  
577 delay and payment of all costs assessed against him. Appeal may  
578 be with supersedeas and shall be subject to the provisions of  
579 Section 11-51-31.



580       (3) Where a warehouseman licensed under this chapter is  
581 involved in the hearing, the claim determination provisions of  
582 this chapter are applicable to claims arising both under this  
583 chapter and Article 7, Title 75, Chapter 45, Mississippi Code of  
584 1972.

585       **SECTION 10.** Section 75-45-305, Mississippi Code of 1972, is  
586 amended as follows:

587       75-45-305. (1) Every person licensed as a grain dealer  
588 shall have filed with the department a surety bond signed by the  
589 dealer as principal and by a responsible company authorized to  
590 execute surety bonds within the State of Mississippi. A grain  
591 dealer may file with the department, in lieu of a surety bond, a  
592 certificate of deposit or irrevocable letter of credit from any  
593 bank or banking corporation insured by the Federal Deposit  
594 Insurance Corporation, payable to the commissioner, as trustee.  
595 The principal amount of the certificate of deposit or the amount  
596 of the letter of credit shall be the same as that required for a  
597 surety bond under this article and the interest thereon shall be  
598 made payable to the purchaser thereof. Such bond shall be a  
599 principal amount (to the nearest One Thousand Dollars (\$1,000.00))  
600 equal to ten percent (10%) of the aggregate dollar amount paid, by  
601 the dealer to producers for grain purchased from them during the  
602 dealer's last completed fiscal year or in the case of a dealer who  
603 has been engaged in business as a grain dealer for less than one  
604 (1) year or who has not theretofore engaged in such business, ten





605 percent (10%) of the estimated aggregate dollar amount to be paid  
606 by the dealer to producers for grain purchased from them during  
607 the next fiscal year. Such bond shall not be less than  
608 Twenty-five Thousand Dollars (\$25,000.00) nor more than One  
609 Hundred Thousand Dollars (\$100,000.00), except as otherwise  
610 authorized by this article. The commissioner shall determine the  
611 sufficiency of any letter of credit.

612 (2) The commissioner may, when he questions a grain dealer's  
613 ability to pay producers for grain purchased, require a grain  
614 dealer to post an additional bond in a dollar amount deemed  
615 appropriate by the commissioner. Failure to post such additional  
616 bond or certificate of deposit or irrevocable letter of credit,  
617 constitutes grounds for suspension or revocation of a license  
618 issued under this article.

619 (3) Any required bond or bonds shall be executed by the  
620 grain dealer as principal and by a corporate surety licensed to do  
621 business in this state as a surety. The bond shall be in favor of  
622 the commissioner for the benefit of all persons interested, their  
623 legal representatives, attorneys or assigns, conditioned upon the  
624 faithful compliance by the grain dealer with the provisions of  
625 this article and the rules and regulations of the State Department  
626 of Agriculture and Commerce applicable thereto. The aggregate  
627 liability of the surety shall not exceed the sum of such bond.  
628 The bond may be cancelled at any time by the surety by giving  
629 written notice to the commissioner of its intention to cancel the



630 bond and all liability thereunder shall terminate sixty (60) days  
631 after the mailing of such notice except that such notice shall not  
632 affect any claims arising under the bond, whether presented or  
633 not, before the effective date of the cancellation notice.

634 (4) Any grain dealer who is of the opinion that his net  
635 worth and assets are sufficient to guarantee payment to producers  
636 for grain purchased by him may request the commissioner to be  
637 relieved of the obligation of filing a bond in excess of the  
638 minimum bond of Twenty-five Thousand Dollars (\$25,000.00). Such  
639 request shall be accompanied by a financial statement of the  
640 applicant made within six (6) months of the date of such request  
641 certified by a certified public accountant. If such financial  
642 statement discloses net assets and a net worth of an amount equal  
643 to at least three (3) times the amount of the bond required by  
644 this article and the commissioner is otherwise satisfied as to the  
645 financial ability and resources of the applicant, the commissioner  
646 may waive that portion of the required bond in excess of  
647 Twenty-five Thousand Dollars (\$25,000.00). However, in the case  
648 of a grain dealer whose net worth is not equal to three (3) times  
649 the amount of bond required, the commissioner may allow such grain  
650 dealer to waive in One Thousand Dollar (\$1,000.00) increments a  
651 portion of the bond required in excess of Twenty-five Thousand  
652 Dollars (\$25,000.00). The percentage factor to be applied to the  
653 bond required in excess of Twenty-five Thousand Dollars  
654 (\$25,000.00) shall be determined by dividing actual net worth by



655 the net worth required to waive all bond in excess of Twenty-five  
656 Thousand Dollars (\$25,000.00). If the result of this computation  
657 provides a percentage factor of eighty percent (80%) or greater,  
658 then that same percentage of the bond in excess of Twenty-five  
659 Thousand Dollars (\$25,000.00) may be waived. The grain dealer  
660 shall then provide to the commissioner a surety bond in the amount  
661 of Twenty-five Thousand Dollars (\$25,000.00) plus any additional  
662 bond required in excess thereof.

663 (5) Any grain dealer who purchases grain from producers only  
664 in connection with or as an incident to some other business and  
665 whose total purchases of grain from producers during any fiscal  
666 year do not exceed an aggregate amount of One Hundred Thousand  
667 Dollars (\$100,000.00) may satisfy the bonding requirements of this  
668 article by filing with the commissioner a bond, or certificate of  
669 deposit or irrevocable letter of credit from any bank or banking  
670 corporation insured by the Federal Deposit Insurance Corporation,  
671 at the rate of One Thousand Dollars (\$1,000.00) for each Ten  
672 Thousand Dollars (\$10,000.00) or fraction thereof of the dollar  
673 amount to be purchased, with a minimum bond, certificate of  
674 deposit or irrevocable letter of credit of One Thousand Dollars  
675 (\$1,000.00) and a current financial statement.

676 (6) Failure of a grain dealer to file a bond, or certificate  
677 of deposit, or letter of credit, and to keep such bond,  
678 certificate of deposit or line of credit in force, or to maintain  
679 assets adequate to assure payment to producers for grain purchased



680 from them shall be grounds for the suspension or revocation of a  
681 license issued under this article.

682 (7) When the commissioner has determined that a grain dealer  
683 has defaulted payment to producers for grain which he has  
684 purchased from them, the commissioner shall determine \* \* \*, using  
685 the hearing procedures set out in Section 75-44-35, the producers  
686 and the amount of defaulted payment and as trustee of the bond  
687 shall immediately after such determination call for the dealer's  
688 surety bond or bonds, or other pledged financial assets, to be  
689 paid to him for distribution to those producers who should receive  
690 the benefits. Should the defaulted amount owed the producers be  
691 less than the principal amount of the bond or bonds or pledged  
692 financial assets, then the surety bank, or banking corporation  
693 shall be obligated to pay only the amount of the default.

694 **SECTION 11.** Section 75-45-311, Mississippi Code of 1972, is  
695 amended as follows:

696 75-45-311. If a grain dealer should fail or refuse to make  
697 payment to a producer for grain purchased when such payment is  
698 requested by the producer and the request is made within one  
699 hundred sixty (160) days of the date of sale or the date of  
700 delivery of such grain to the dealer, whichever is later, but in  
701 case of deferred pricing, delayed pricing, priced-later, or  
702 similar contractual arrangements, no more than two hundred seventy  
703 (270) days after the date of delivery, the producer may notify the  
704 commissioner in writing, by certified mail when possible, of such



705 failure or refusal within the period of \* \* \* thirty (30) days  
706 after such refusal or failure to pay. The commissioner upon  
707 receiving such notice shall \* \* \* initiate a hearing procedure as  
708 set forth in Section 75-44-35. The producer shall then file a  
709 claim in accordance with any regulations promulgated by the  
710 commissioner. The producer furnishing such written notice within  
711 the prescribed length of time is entitled to the benefits of the  
712 grain dealer's bond. However, if a producer fails to furnish  
713 written notice to the commissioner within the prescribed time,  
714 then such producer is not entitled to any benefits under the grain  
715 dealer's bond. Grain dealer liability under priced-later  
716 contracts, open-priced contracts, deferred price contracts, or  
717 similar agreements shall accrue under the bond in effect at the  
718 date of default as determined by the commissioner. Any bond  
719 required under this chapter shall be in addition to the bond  
720 required by an entity licensed under the "Mississippi Grain  
721 Warehouse Law," established under Section 75-44-1 et seq.

722 **SECTION 12.** Sections 69-41-1, 69-41-3, 69-41-5, 69-41-7,  
723 69-41-9, 69-41-11, 69-41-13 and 69-41-19, Mississippi Code of  
724 1972, which are provisions establishing and governing the  
725 administration of the "Mississippi Agribusiness Council Act of  
726 1993," are repealed.

727 **SECTION 13.** This act shall take effect and be in force from  
728 and after July 1, 2023.

