

By: Stogner

To: Agriculture

SENATE BILL NO. 2495
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 69-25-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE COMMISSIONER OF AGRICULTURE SHALL MEET QUARTERLY
3 WITH THE DIRECTOR OF THE BUREAU OF PLANT INDUSTRY INSTEAD OF THE
4 STATE ENTOMOLOGIST; TO AMEND SECTION 69-25-5, MISSISSIPPI CODE OF
5 1972, TO PROVIDE THAT THE DIRECTOR OF THE BUREAU OF PLANT INDUSTRY
6 SHALL PERFORM CERTAIN FUNCTIONS PREVIOUSLY ASSIGNED TO THE STATE
7 ENTOMOLOGIST; TO PROVIDE THAT THE COMMISSIONER OF AGRICULTURE AND
8 THE DIRECTOR OF THE BUREAU OF PLANT INDUSTRY SHALL APPOINT THE
9 STATE ENTOMOLOGIST; TO AMEND SECTION 69-25-51, MISSISSIPPI CODE OF
10 1972, TO PROVIDE THAT THE DIRECTOR OF THE BUREAU OF PLANT
11 INDUSTRY, RATHER THAN THE STATE ENTOMOLOGIST, SHALL ACT AS A
12 REVIEWING OFFICER WHEN ANY ALLEGATION OR CHARGE HAS BEEN MADE
13 AGAINST A PERSON FOR VIOLATING THE RULES AND REGULATIONS OF THE
14 BUREAU OF PLANT INDUSTRY; AND FOR RELATED PURPOSES.

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

16 SECTION 1. Section 69-25-3, Mississippi Code of 1972, is
17 amended as follows:

18 69-25-3. The State Plant Board is abolished and its duties
19 are transferred to the Commissioner of Agriculture and Commerce,
20 and it shall henceforth be known as the Bureau of Plant Industry.

21 There is created an Advisory Board to the Bureau of Plant
22 Industry, composed of the following: the State Chemist; the head
23 of the Entomology and Plant Pathology Department, Mississippi
24 State University of Agriculture and Applied Science; the head of
25 the Plant and Soil Science Department, Mississippi State
26 University of Agriculture and Applied Science; Alcorn State
27 University Director of Agriculture and Applied Sciences; and, for
28 a period of two (2) years, the following: one (1) soil
29 conservation district commissioner appointed by the commissioner;
30 two (2) residents of Mississippi who engage in the production of
31 any crop, appointed by the commissioner; one (1) resident of the
32 State of Mississippi who is a commercial applicator holding a

license issued under the rules and regulations of the Bureau of Plant Industry, appointed by the commissioner; one (1) resident of the State of Mississippi who is a restricted use pesticide registrant or an employee of such person, appointed by the commissioner; one (1) resident of the State of Mississippi who is either a wholesale or retail horticulturist, appointed by the commissioner, and one (1) resident of the State of Mississippi who is a licensed landscape contractor, appointed by the commissioner, who shall serve with no compensation and whose duties are to advise the commissioner on all matters regarding the Bureau of Plant Industry. The commissioner shall meet quarterly * * * with the advisory board and the Director of the Bureau of Plant Industry. It is the intent and purpose of this section to maintain the domicile of this division of the Department of Agriculture and Commerce at Mississippi State University of Agriculture and Applied Science, Mississippi State, Mississippi.

SECTION 2. Section 69-25-5, Mississippi Code of 1972, is amended as follows:[HS1]

69-25-5. The Commissioner of Agriculture and Commerce shall appoint a full-time executive secretary and director, hereinafter called the "Director of the Bureau of Plant Industry," * * * whose office shall be at Mississippi State University of Agriculture and Applied Science. The director shall serve at the will and pleasure of the commissioner and shall receive a salary in an amount to be determined by the commissioner. It shall be the duty of the director to enforce the rules and regulations adopted by the commissioner and to perform such other functions that may be assigned to him by the * * * commissioner.

The Commissioner of Agriculture and Commerce and the Director of the Bureau of Plant Industry shall appoint a full-time State Entomologist, who shall be a qualified entomologist and whose office shall be at Mississippi State University of Agriculture and Applied Science.

The full-time executive secretary and director provided for in the first paragraph of this section shall carry out the statutory functions of the executive officer of the Bureau of Plant Industry, Mississippi Department of Agriculture and

Commerce, as provided in Section 69-21-107. He shall serve a term of office on the State Board of Agricultural Aviation on a continuous basis as long as he performs his functions as executive secretary or director.

SECTION 3. Section 69-25-51, Mississippi Code of 1972, is amended as follows:

69-25-51. (1) When any allegation or charge has been made against a person for violating the rules and regulations of the Bureau of Plant Industry within the regulatory office of the Mississippi Department of Agriculture and Commerce or the laws set forth in Sections 69-19-1 through 69-19-11 and Sections 69-21-1 through 69-21-27 and Sections 69-23-1 through 69-23-133, Mississippi Code of 1972, the Director of the Bureau of Plant Industry or his designated employee shall act as a reviewing officer. The designated reviewing officer shall (a) cause the complaint to be in writing and signed by the person making the charge; (b) insure that the complaint is filed in the Office of the Bureau of Plant Industry; and (c) send a copy of the complaint and any supporting documents to the person accused along with a request for the accused to respond to the allegations within thirty (30) days. Such notification shall be accomplished by any of the methods provided for in Rule 4 of the Mississippi Rules of Civil Procedure. Upon receipt of the response and any supporting documents from the accused, the reviewing officer shall screen all information on file to determine the merit of the complaint or lack thereof. The reviewing officer may meet with and discuss the alleged violation with the accused.

(2) If the reviewing officer determines that the complaint lacks merit, he may recommend to the Commissioner of Agriculture and Commerce that the complaint be dismissed.

(3) If the reviewing officer determines that there are reasonable grounds to indicate that a violation has occurred or if the accused admits to the truth of the allegations upon which the

complaint is based, the reviewing officer may recommend to the Commissioner of Agriculture and Commerce an appropriate penalty which may be a written notice of warning, assessment of civil penalties or suspension or cancellation of license or permit as provided by the Rules and Regulations of the Bureau of Plant Industry and/or a fine not to exceed Five Thousand Dollars (\$5,000.00) for each violation.

(4) If the accused requests a hearing, in writing, within thirty (30) days from receipt of the decision of the Commissioner of Agriculture and Commerce, the commissioner shall appoint three (3) members of the advisory board to the Bureau of Plant Industry to act as a hearing committee and a hearing shall be scheduled.

In determining the amount of the penalty, the reviewing officer shall consider the appropriateness of such penalty for the particular violation, the effect of the penalty on the person's ability to continue in business and the gravity of the violation.

SECTION 4. This act shall take effect and be in force from and after July 1, 2000.