

By: Senator(s) Stogner

To: Agriculture

SENATE BILL NO. 2793

1 AN ACT TO AMEND SECTION 69-25-1, MISSISSIPPI CODE OF 1972, TO
 2 DEFINE NOXIOUS WEEDS AS THOSE PLANTS DECLARED BY THE BUREAU OF
 3 PLANT INDUSTRY TO BE A PUBLIC NUISANCE; TO AMEND SECTION 69-25-3,
 4 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMMISSIONER OF
 5 AGRICULTURE SHALL MEET ANNUALLY WITH THE ADVISORY BOARD AND THE
 6 DIRECTOR OF THE BUREAU OF PLANT INDUSTRY; TO AMEND SECTION
 7 69-25-5, MISSISSIPPI CODE OF 1972, TO REMOVE THE PROVISION THAT
 8 THE DIRECTOR OF THE BUREAU OF PLANT INDUSTRY SHALL BE DESIGNATED
 9 AS A MEMBER OF THE AGRICULTURAL AVIATION BOARD; TO AMEND SECTIONS
 10 69-25-7, 69-25-9, 69-25-15, 69-25-17, 69-25-19, 69-25-21,
 11 69-25-23, 69-25-25 AND 69-25-27, MISSISSIPPI CODE OF 1972, TO
 12 ALLOW NOXIOUS WEEDS TO BE REGULATED AS PESTS; TO AMEND SECTION
 13 69-25-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DIRECTOR
 14 OF THE BUREAU OF PLANT INDUSTRY SHALL SHARE RESPONSIBILITIES WITH
 15 THE STATE ENTOMOLOGIST IN THE ENFORCEMENT OF THE MISSISSIPPI PLANT
 16 LAW; TO AMEND SECTION 69-25-33, MISSISSIPPI CODE OF 1972, TO
 17 REMOVE THE FIRE ANT ERADICATION PROGRAM LANGUAGE AS SUCH PROGRAM
 18 IS DEFUNCT AND IS NO LONGER A VIABLE RECOURSE; TO AMEND SECTION
 19 69-25-47, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTIES FOR
 20 VIOLATIONS OF THE MISSISSIPPI PLANT LAW; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** Section 69-25-1, Mississippi Code of 1972, is
 23 amended as follows:

24 69-25-1. For the purpose of this article, the following
 25 terms shall be construed, respectively, to mean:

26 Division of Plant Industry -- means the Bureau of Plant
 27 Industry within the Regulatory Office of the Mississippi
 28 Department of Agriculture and Commerce.

29 Insect pests -- means insects or other invertebrates
 30 injurious to plants and plant products.

31 Noxious weed -- means a plant species or classified group of
 32 plants declared by the Bureau of Plant Industry to be a public
 33 nuisance or to be especially injurious to the environment, to
 34 agricultural and horticultural production or to wildlife and which
 35 should be controlled and the dissemination of which prevented.



36 Plant diseases -- means fungi, bacteria, nematodes and
37 viruses injurious to plants and plant products and the
38 pathological condition in plants and plant products caused by
39 fungi, bacteria, nematodes and viruses. This definition shall
40 also include plants which are parasitic or partially parasitic on
41 other plants such as "witch weed", *Striga asiatica*, a serious
42 parasitic plant of corn and other members of the grass family.

43 Plants and plant products -- Trees, shrubs, seedlings, vines,
44 forage and cereal plants, and all other plants; cuttings, grafts,
45 scions, buds and all other parts of plants and fruits, vegetables,
46 roots, bulbs, seeds, wood, timber and all other plant products.

47 Places -- Vessels, cars and other vehicles, buildings, docks,
48 nurseries, orchards and other premises, where plants and plant
49 products are grown, kept or handled.

50 Persons -- Individuals, associations, partnerships and
51 corporations.

52 **SECTION 2.** Section 69-25-3, Mississippi Code of 1972, is
53 amended as follows:

54 69-25-3. The State Plant Board is abolished and its duties
55 are transferred to the Commissioner of Agriculture and Commerce,
56 and it shall henceforth be known as the Bureau of Plant Industry.

57 There is created an Advisory Board to the Bureau of Plant
58 Industry, composed of the following: the State Chemist; the head
59 of the Entomology and Plant Pathology Department, Mississippi
60 State University of Agriculture and Applied Science; the head of
61 the Plant and Soil Science Department, Mississippi State
62 University of Agriculture and Applied Science; Alcorn State
63 University Director of Agriculture and Applied Sciences; and, for
64 a period of two (2) years, the following: one (1) soil
65 conservation district commissioner appointed by the commissioner;
66 two (2) residents of Mississippi who engage in the production of
67 any crop, appointed by the commissioner; one (1) resident of the
68 State of Mississippi who is a commercial applicator holding a



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

85 **SECTION 3.** Section 69-25-5, Mississippi Code of 1972, is
86 amended as follows:

87 69-25-5. The Commissioner of Agriculture and Commerce shall
88 appoint a full-time executive secretary and director, hereinafter
89 called the "Director of the Bureau of Plant Industry," whose
90 office shall be at Mississippi State University of Agriculture and
91 Applied Science. The director shall serve at the will and
92 pleasure of the commissioner and shall receive a salary in an
93 amount to be determined by the commissioner. It shall be the duty
94 of the director to enforce the rules and regulations adopted by
95 the commissioner and to perform such other functions that may be
96 assigned to him by the commissioner.

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



102 * * *

103 **SECTION 4.** Section 69-25-7, Mississippi Code of 1972, is
104 amended as follows:

105 69-25-7. (1) The Commissioner of Agriculture and Commerce is
106 empowered to conduct such inspections and promulgate and enforce
107 such quarantine regulations as may be necessary in carrying out
108 the provisions of this article.

109 (2) The Commissioner of Agriculture and Commerce shall from
110 time to time make rules and regulations for carrying out the
111 provisions and requirements of this article, including rules and
112 regulations under which his inspectors and other employees shall
113 (a) inspect places, plants and plant products, and things, and
114 substances used or connected therewith, (b) investigate, control,
115 eradicate and prevent the dissemination of insect pests, diseases
116 and noxious weeds, and (c) supervise or cause the treatment,
117 cutting and destruction of plants and plant products and other
118 things infested or infected therewith, but no such rule or
119 regulation shall be effective unless first submitted to and
120 approved by the advisory board established under the provisions of
121 Section 69-25-3. The inspectors and employees employed by the
122 commissioner shall have authority to carry out and execute the
123 regulations and orders of the * * * commissioner and shall have
124 authority under direction of the commissioner to carry out the
125 provisions of this article.

126 **SECTION 5.** Section 69-25-9, Mississippi Code of 1972, is
127 amended as follows:

128 69-25-9. The Commissioner of Agriculture and Commerce shall
129 keep himself informed as to known varieties of insect pests, diseases
130 and noxious weeds, their origin, locality, nature and
131 appearance thereof, the manner in which they are disseminated, and
132 approved methods of treatment and eradication.

133 The Commissioner of Agriculture and Commerce, in his rules
134 and regulations made pursuant to this article, shall list the



135 insect pests, diseases and noxious weeds, of which he shall find
136 that the introduction into, or the dissemination within, this
137 state should be prevented in order to safeguard the environment,
138 agricultural and horticultural production and the plants and plant
139 products of this state, together with the plants and plant
140 products and other things likely to become infested or infected
141 with such insect pests, diseases and noxious weeds. Every such
142 insect pest, disease and noxious weed listed, and every plant and
143 plant product and other thing infected therewith, is hereby
144 declared to be a public nuisance. Every person who has knowledge
145 of the presence of any insect pest, disease or noxious weed
146 listed, as required by this section, in the rules and regulations
147 made pursuant to this article, in or upon any place, shall
148 immediately report same to the commissioner or an inspector
149 therefor giving such detailed information relative thereto as he
150 may have. Every person who deals in or engages in the sale of
151 plants and plant products or other things infested or infected, or
152 likely to be or become so shall furnish to the commissioner or his
153 inspectors, when requested, a statement of the names and addresses
154 of the persons from whom and the localities where he purchased or
155 obtained such plants and plant products, and other things infested
156 or infected, or likely to be or become so.

157 **SECTION 6.** Section 69-25-11, Mississippi Code of 1972, is
158 amended as follows:

159 69-25-11. The inspections and the quarantine enforcement
160 referred to in this article shall be conducted under the direction
161 of the Commissioner of Agriculture and Commerce by the Director of
162 the Bureau of Plant Industry and the State Entomologist at
163 Mississippi State University of Agriculture and Applied Science
164 and such assistants as may become necessary. It shall be the duty
165 of the Director of the Bureau of Plant Industry and the State
166 Entomologist to make recommendations to the commissioner regarding
167 quarantines and regulations.



168 **SECTION 7.** Section 69-25-15, Mississippi Code of 1972, is
169 amended as follows:

170 69-25-15. Whenever an inspection made pursuant to this
171 article discloses that any places, or plants, or plant products or
172 things or substances used or connected therewith, are infested or
173 infected with any insect, pest, disease or noxious weed listed as
174 a public nuisance, or are dead or of stock so seriously weakened
175 by drying, excessive heat or cold, or any other condition that
176 makes it unable to grow satisfactorily when given reasonable care,
177 as required above herein, in the rules and regulations made
178 pursuant hereto, written notice thereof shall be given the owner
179 or other person in possession or control of the place where found
180 and such owner or other person shall proceed to control, eradicate
181 or prevent the dissemination of such insect, pest, disease or
182 noxious weed, and to remove, cut or destroy infested and infected
183 plants and plant products, or dead or dying plants, or things or
184 substances used or connected therewith, within the time and in the
185 manner prescribed by said notice or the said rules and
186 regulations. Whenever such owner or other person cannot be found,
187 or shall fail, neglect or refuse to obey the requirements of said
188 notice and the rules and regulations so made, such requirements
189 shall be carried out by inspectors or other employees of the
190 Commissioner of Agriculture and Commerce as the law allows.

191 **SECTION 8.** Section 69-25-17, Mississippi Code of 1972, is
192 amended as follows:

193 69-25-17. It shall be unlawful for any person to bring or
194 cause to be brought into this state any plant or plant product or
195 other thing listed as required above herein, in the rules and
196 regulations made pursuant hereto, unless thereby plainly and
197 legibly marked thereon or affixed thereto, or on or to the car or
198 other vehicle carrying, or the bundle, package or other container
199 of the same, in a conspicuous place, a statement or a tag or other
200 device showing the names and addresses of the consignors or



201 shippers and the consignee or person to whom shipped, the general
202 nature and quantity of the contents, and the name of the locality
203 where grown or shipped, together with a certificate of inspection
204 of the proper official of the state, territory, district or county
205 from which it was brought or shipped, showing that such plant or
206 plant product or other thing or substance was found or believed to
207 be free from insect pests, diseases and noxious weeds, and any
208 other information required by the Commissioner of Agriculture and
209 Commerce such as certificates of fumigation.

210 **SECTION 9.** Section 69-25-19, Mississippi Code of 1972, is
211 amended as follows:

212 69-25-19. It shall be unlawful for any person to sell, give
213 away, carry, ship, or deliver for carriage or shipment within this
214 state, any plants or plant products or other thing or substitute
215 listed, as required in such rules and regulations made by the
216 Commissioner of Agriculture and Commerce unless such plant or
217 plant products or other thing or substance have been officially
218 inspected and a certificate issued by an inspector of the
219 commissioner stating that the * * * plants or plant products or
220 other thing or substance have been inspected and found to be
221 apparently free from insect pests, diseases and noxious weeds, and
222 any other facts provided for in the rules and regulations made
223 pursuant to this statute. For the issuance of such certificate,
224 the commissioner may require the payment of a reasonable fee to
225 cover the expense of such an inspection and certification
226 provided, however, that if such plants or plant products or other
227 thing or substance were brought into the state in compliance with
228 the requirements of law such certificate required may be accepted
229 in lieu of the inspection and certificate required by this section
230 in such cases as shall be provided for in the rules and
231 regulations made hereunder. If it shall be found at any time that
232 a certificate of inspection issued or accepted pursuant to the
233 provisions of this section is being used in connection with plants



234 and plant products or other things or substances which are
235 infested or infected with insect pests, diseases or noxious weeds
236 listed in the rules and regulations, its further use may be
237 prohibited, subject to such inspection and other dispositions of
238 the plants and plant product involved as may be provided for by
239 the commissioner. All monies collected by the commissioner where
240 not otherwise provided shall be deposited in the State Treasury to
241 the credit of the General Fund revenue receipts.

242 **SECTION 10.** Section 69-25-21, Mississippi Code of 1972, is
243 amended as follows:

244 69-25-21. Any person in this state who receives from without
245 the state any plant or plant product, or other thing or substance
246 as to which the requirements of section next before the last above
247 have not been complied with, or who receives any plant or plant
248 product, or other thing or substance, sold, given away, carried,
249 shipped, or delivered for carriage or shipment within this state
250 as to which the requirements of next foregoing section have not
251 been complied with, shall immediately inform the Commissioner of
252 Agriculture and Commerce or an inspector thereof and isolate and
253 hold the * * * plant or plant product or other thing or substance
254 unopened or unused subject to such inspection and other
255 disposition as may be provided for by the commissioner.

256 **SECTION 11.** Section 69-25-23, Mississippi Code of 1972, is
257 amended as follows:

258 69-25-23. Whenever the Commissioner of Agriculture and
259 Commerce finds that there exists outside of this state any
260 destructive or nuisance insect pest, disease or noxious weed, the
261 commissioner may give public notice thereof, specifying the
262 locations, the plants and the plant products infested, infected or
263 declared noxious and which are likely to become infested or
264 infected therewith. In order to safeguard the environment,
265 agricultural and horticultural production, plants and plant
266 products, the movement of such plants or plant products or other



267 things or substances into this state from the infected or infested
268 locality shall thereafter be prohibited until the commissioner
269 determines that the danger of the introduction into this state of
270 such insect pests, diseases or noxious weeds from such locality
271 has ceased to exist.

272 **SECTION 12.** Section 69-25-25, Mississippi Code of 1972, is
273 amended as follows:

274 69-25-25. Whenever the Commissioner of Agriculture and
275 Commerce shall find that there exists in this state, or any part
276 thereof, any insect pest, disease or noxious weed, and that its
277 dissemination should be controlled or prevented, the commissioner
278 shall give public notice thereof, specifying the plants or plant
279 products or other thing or substance infested, infected or
280 declared noxious or likely to become infested or infected
281 therewith, and the movement, planting or other use of any such
282 plant or plant product, or other thing or substance specified in
283 such notice as likely to carry and disseminate such insect pest,
284 disease or noxious weed, except under such conditions as shall be
285 prescribed by the commissioner as to inspection, treatment and
286 disposition, shall be prohibited within such area as may be
287 designated in the public notice until the commissioner shall find
288 that the danger of the dissemination of such insect pest, disease
289 or noxious weed has ceased to exist, of which the commissioner
290 shall give public notice.

291 **SECTION 13.** Section 69-25-27, Mississippi Code of 1972, is
292 amended as follows:

293 69-25-27. By virtue of the powers conferred herein and for
294 the purpose of protecting the environment, agricultural and
295 horticultural production, the plant life and plant products of
296 this state, the Commissioner of Agriculture and Commerce may
297 prevent and prohibit the introduction into the state for the
298 purpose of transportation through the state of any such plants and
299 plant products or other things or substance hereinbefore mentioned



300 to the same extent and for the same purpose and with the same
301 authority that is provided above with reference to the
302 introduction of the same into the state.

303 **SECTION 14.** Section 69-25-33, Mississippi Code of 1972, is
304 amended as follows:

305 69-25-33. The boards of supervisors in the various counties
306 of the state and the governing bodies in the various
307 municipalities of the state are hereby authorized and empowered,
308 in their discretion, to appropriate money out of the general funds
309 of the counties and municipalities to be used for the purpose of
310 cooperating with the Commissioner of the Department of Agriculture
311 and Commerce in eradicating serious insect pests, rodents, plant
312 parasites, plant diseases and noxious weeds and in protecting the
313 counties and municipalities from serious insect pests, rodents,
314 plant parasites, plant diseases and noxious weeds.

315 * * *

316 **SECTION 15.** Section 69-25-47, Mississippi Code of 1972, is
317 amended as follows:

318 69-25-47. Any person who shall violate any provisions or
319 requirements of this article, or of the rules and regulations made
320 or of any notice given pursuant thereto or shall forge,
321 counterfeit, deface, destroy or wrongfully use any certificate
322 provided for herein or in the rules and regulations made pursuant
323 thereto, shall be deemed guilty of a misdemeanor and upon
324 conviction thereof shall be punished by a fine of not more than
325 One Thousand Dollars (\$1,000.00) or by imprisonment for not more
326 than six (6) months or by both such fine and imprisonment at the
327 discretion of the court having jurisdiction.

328 **SECTION 16.** This act shall take effect and be in force from
329 and after July 1, 2003.

