

By: Representatives Owen, McCarty

To: Agriculture

HOUSE BILL NO. 1055

1 AN ACT TO ESTABLISH THE "REGULATORY SANDBOX AGRICULTURAL
2 INNOVATION PILOT PROGRAM ACT"; TO CREATE AN AGRICULTURAL
3 REGULATORY SANDBOX PROGRAM IN THE MISSISSIPPI DEPARTMENT OF
4 AGRICULTURE AND COMMERCE, WHICH ALLOWS A PARTICIPANT TO
5 TEMPORARILY TEST INNOVATIVE AGRICULTURAL PRODUCTS OR SERVICES ON A
6 LIMITED BASIS WITHOUT OTHERWISE BEING LICENSED OR AUTHORIZED TO
7 ACT UNDER THE LAWS OF THE STATE; TO PRESCRIBE THE DUTIES OF THE
8 DEPARTMENT IN ADMINISTERING THE AGRICULTURAL REGULATORY SANDBOX
9 PILOT PROGRAM, TO PRESCRIBE THE PROCEDURES TO BE FOLLOWED BY
10 APPLICANTS SEEKING APPROVAL FOR PARTICIPATION IN THE AGRICULTURAL
11 REGULATORY SANDBOX PILOT PROGRAM, TO ESTABLISH TIMELINES FOR
12 SUBMISSION OF APPLICATION BY APPLICANTS AND FOR THE DEPARTMENT TO
13 RESPOND TO SUCH APPLICATIONS; TO PROVIDE AN APPEALS PROCESS FOR
14 APPLICANTS WHOSE APPLICATION ARE DENIED BY THE DEPARTMENT; TO
15 REQUIRE APPLICANTS APPROVED FOR PARTICIPATION IN THE PROGRAM TO
16 PROVIDE CERTAIN NOTICE AND ASSURANCES TO CONSUMER; TO ESTABLISH
17 THE MAXIMUM DURATION OF AN AGRICULTURAL REGULATORY SANDBOX TESTING
18 PERIOD; TO REQUIRE AN AGRICULTURAL SANDBOX PARTICIPANT TO RETAIN
19 RECORDS, DOCUMENTS AND DATA PRODUCED IN THE ORDINARY COURSE OF
20 BUSINESS REGARDING AN INNOVATIVE AGRICULTURAL PRODUCT OR SERVICE
21 TESTED IN THE AGRICULTURAL REGULATORY SANDBOX; TO AUTHORIZE THE
22 DEPARTMENT TO TERMINATE AN APPLICANT'S PARTICIPATION IN THE
23 AGRICULTURAL REGULATORY SANDBOX AT ANY TIME AND FOR ANY REASON; TO
24 REQUIRE THE DEPARTMENT TO PROVIDE, BY OCTOBER 1, AN ANNUAL REPORT
25 TO PEER WITH INFORMATION REGARDING EACH AGRICULTURAL SANDBOX
26 PARTICIPANT RECOMMENDATIONS ON THE EFFECTIVENESS OF THE
27 AGRICULTURAL REGULATORY SANDBOX PROGRAM; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** This act shall be known and may be cited as the
30 "Regulatory Sandbox Agricultural Innovation Pilot Program Act."



31 **SECTION 2.** As used in this section, the following words
32 shall have the meanings unless the context clearly requires
33 otherwise:

34 (a) "Applicable agency" means a department or agency of
35 the state which by law regulates certain types of
36 agricultural-related business activity in the state and persons
37 engaged in such agricultural-related business activity. For
38 purposes of this act, regulation includes the issuance of licenses
39 or any other types of authorization, which the department
40 determines would otherwise regulate an agricultural specific
41 sandbox participant.

42 (b) "Applicant" means an individual or entity that is
43 applying to participate in the agricultural specific regulatory
44 sandbox.

45 (c) "Consumer" means a person that purchases or
46 otherwise enters into a transaction agreement to receive an
47 innovative agricultural specific product or service that is being
48 tested by an agricultural specific regulatory sandbox participant.

49 (d) "Department" means the Mississippi Department of
50 Agriculture and Commerce, which shall be responsible for
51 overseeing the agricultural-specific sandbox program.

52 (e) "Innovation" means the use or incorporation of a
53 new business model or technology, to address a problem, provide a
54 benefit, or otherwise offer a product, service, business model, or



55 delivery mechanism that is not known by the department to have a
56 comparable widespread offering in this state.

57 (f) "Innovative agricultural product or service" means
58 an agricultural product or agricultural service that includes an
59 innovation.

60 (g) "Agricultural product or service" means an
61 agricultural product or service that requires state licensure,
62 registration, or other authorization as regulated by any section
63 in Title 69, Mississippi Code of 1972, including an agricultural
64 specific product or agricultural service that includes a business
65 model, delivery mechanism, or element that requires a license,
66 registration, or other authorization to do an agricultural
67 specific business, act as an agricultural producer or consultant.

68 (h) "Agricultural Regulatory Sandbox" means the
69 Agricultural Regulatory Sandbox Program created by Section
70 69-1-376, which allows a person to temporarily test an innovative
71 agricultural product or service on a limited basis without
72 otherwise being licensed or authorized to act under the laws of
73 this state.

74 (i) "Agricultural sandbox participant" means a person
75 whose application to participate in the agricultural regulatory
76 sandbox is approved in accordance with the provisions of this
77 chapter.



78 (j) "Test" means to provide an innovative agricultural
79 product or service in accordance with the provisions of this
80 chapter.

81 **SECTION 3.** (1) The Mississippi Department of Agriculture
82 and Commerce shall establish an Agricultural Regulatory Sandbox
83 Program in accordance with the "Regulatory Sandbox Agricultural
84 Innovation Pilot Program Act." In administering the agricultural
85 regulatory sandbox, the department:

86 (a) Shall consult with each applicable agency;

87 (b) Shall establish a program to enable a person to
88 obtain limited access to the market in this state to test an
89 innovative agricultural product or service without obtaining a
90 license or other authorization that might otherwise be required;

91 (c) May enter into agreements with or follow the best
92 practices of the Consumer Financial Protection Bureau or other
93 states that are administering similar programs; and

94 (d) May not approve participation in the agricultural
95 regulatory sandbox by an applicant or any other participant who
96 has been convicted, entered a plea of nolo contendere, or entered
97 a plea of guilty or nolo contendere held in abeyance for a serious
98 crime:

99 (i) Involving theft, fraud, or dishonesty; or

100 (ii) That bears a substantial relationship to the
101 applicant's or participant's ability to safely or competently
102 participate in the agricultural regulatory sandbox program.



103 (2) An applicant for the agricultural regulatory sandbox
104 shall provide to the department an application in a form
105 prescribed by the department that:

106 (a) Demonstrates the applicant is subject to the
107 jurisdiction of this state.

108 (b) Demonstrates the applicant has established a
109 physical or virtual location that is adequately accessible to the
110 department, from which testing will be developed and performed,
111 and where all required records, documents, and data will be
112 maintained.

113 (c) Contains relevant personal and contact information
114 for the application, including legal names, addresses, telephone
115 numbers, email addresses, website addresses, and other information
116 required by the department;

117 (d) Discloses criminal conviction of the applicant or
118 other participating personnel, if any;

119 (e) Demonstrates that the applicant has the necessary
120 personnel, financial and technical expertise, access to capital,
121 and develop a plan to test, monitor, and assess the innovative
122 agricultural product or service.

123 (f) Contains a description of the innovative
124 agricultural product or service to be tested, including statements
125 regarding the following:

126 (i) How the innovative agricultural product or
127 service would benefit consumers;



128 (ii) What risks may confront consumers that use or
129 purchase the innovative agricultural product or service;

130 (iii) How participating in the agricultural
131 regulatory sandbox would enable a successful test of the
132 innovative agricultural product or service;

133 (iv) A description of how the applicant will
134 perform ongoing duties after the test; and

135 (v) How the applicant will end the test and
136 protect consumers if the test fails, including providing evidence
137 of sufficient liability coverage and financial reserves to protect
138 consumers and to protect against insolvency by the applicant; and

139 (g) Provides any other required information as
140 determined by the department.

141 (3) An applicant shall file a separate application for each
142 innovative agricultural product or service the applicant wants to
143 test. Before approving the application, the department may seek
144 any additional information from the applicant that the department
145 determines is necessary.

146 (4) Subject to subsection (7), not later than ninety (90)
147 days after a complete application is received by the department,
148 the department shall inform the applicant as to whether the
149 application is approved or denied entry into the agricultural
150 regulatory sandbox.

151 (5) The department and an applicant may mutually agree to
152 extend the ninety-day timeline as described in subsection (6) to



153 allow department to determine whether an application is approved
154 or denied entry into the agricultural regulatory sandbox.

155 (6) (a) In reviewing an application under this section the
156 department shall consult with, and gain approval from, each
157 applicable agency before admitting an applicant into the
158 agricultural regulatory sandbox.

159 (b) The consultation with an applicable agency may
160 include seeking information about whether:

161 (i) The applicable agency has previously issued a
162 licensed or other authorization to the applicant;

163 (ii) The applicable agency has previously
164 investigated, sanctioned or pursued legal action against the
165 applicant;

166 (iii) The applicant could obtain a license or
167 other authorization from the applicable agency after exiting the
168 agricultural regulatory sandbox; and

169 (iv) Certain licensure or other regulations should
170 not be waived even if the applicant is accepted into the
171 agricultural regulatory sandbox.

172 (7) In reviewing an application under this section, the
173 department shall consider whether a competitor to the applicant is
174 or has been an agricultural sandbox participant, and weigh that as
175 a factor in allowing the applicant to also become an agricultural
176 sandbox participant.



177 (8) If the department and each applicable agency approve an
178 application admitting an applicant into the agricultural
179 regulatory sandbox, an applicant may become an agricultural
180 sandbox participant.

181 (9) The department may deny any application submitted under
182 this section, for any reason, at the department's discretion.

183 (10) If the department denies an application submitted under
184 this section, the department shall provide to the applicant a
185 written description of the reasons for the denial as an
186 agricultural sandbox participant.

187 (11) (a) The sandbox applicant may appeal any of the
188 following decisions of the sandbox program administrators by
189 filing a written notice of appeal with the circuit court clerk of
190 the county where the applicant resides, or in the case of a
191 nonresident applicant, in the Circuit Court of the First Judicial
192 District of Hinds County, Mississippi:

193 (i) Denial of participation in the sandbox
194 program;

195 (ii) Determination of the sandbox program
196 parameters;

197 (iii) Determination of the extent of the
198 applicant's participation in the market; or

199 (iv) Other determinations under this section.

200 (b) The court shall determine all questions of law,
201 including the interpretation of a constitutional or statutory



202 provision or a rule adopted by the sandbox program administrators,
203 without regard to any previous determination that may have been
204 made on the question in any action before the sandbox program
205 administrators.

206 **SECTION 4.** (1) If the department approves an application
207 under the Agricultural Regulatory Sandbox Program, the
208 agricultural sandbox participant has no less than twelve (12)
209 months after the date of the application's approval, to test the
210 innovative agricultural product or service described in the
211 agricultural sandbox participant's application. A longer time
212 period may be initially approved at the department's discretion.

213 (2) An agricultural sandbox participant testing an
214 innovative agricultural product or service within the agricultural
215 regulatory sandbox shall be subject to the following:

216 (a) Consumers shall be residents of the state;

217 (b) The department may, on a case-by-case basis:

218 (i) Specify the maximum number of consumers that
219 may enter into an agreement with the agricultural sandbox
220 participant to use the innovative agricultural product or service;
221 and

222 (ii) If applicable, specify the maximum number of
223 items for each item that may be offered by an agricultural sandbox
224 participant during the test of the innovative agricultural product
225 or service; and



226 (c) If a sandbox participant is accepted into the
227 program, the department shall notify other businesses in the
228 industry that a waiver was granted, to provide other companies the
229 opportunity to apply for the same waiver if they so choose.

230 (3) This section does not restrict an agricultural sandbox
231 participant who holds a license or other authorization in another
232 jurisdiction from acting in accordance with that license or other
233 authorization.

234 (4) An agricultural sandbox participant is deemed to possess
235 an appropriate license under the laws of this state for the
236 purposes of any provision of federal law requiring state licensure
237 or authorization.

238 (5) An agricultural sandbox participant who is testing an
239 innovative agricultural product or service shall be exempt from
240 state laws, regulations, licensing requirements or authorization
241 requirements that were identified by the agricultural sandbox
242 participant's application and have been waived in writing by the
243 department.

244 (6) Notwithstanding any other provision of this chapter to
245 the contrary, an agricultural sandbox participant shall not have
246 immunity related to any criminal offense committed during the
247 agricultural sandbox participant's time in the agricultural
248 regulatory sandbox.

249 (7) By written notice, the department may terminate an
250 agricultural sandbox participant's participation in the regulatory



251 sandbox at any time and for any reason, including, if the
252 department determines an agricultural sandbox participant is not
253 operating in good faith to bring an innovative agricultural
254 product to market.

255 (8) The department and the department's employees shall not
256 be liable for any business losses or the recouping of application
257 expenses related to the agricultural regulatory sandbox,
258 including:

259 (a) Denying an applicant's application to participate
260 in the agricultural regulatory sandbox for any reason; or

261 (b) Terminating an agricultural sandbox participant's
262 participation in the agricultural regulatory sandbox at any time
263 and for any reason.

264 (9) No guaranty association in this state may be held liable
265 for business losses or liabilities incurred as a result of
266 activities undertaken by a participant in the
267 agricultural sandbox.

268 **SECTION 5.** (1) Before providing an innovative agricultural
269 product or service to a consumer, an agricultural sandbox
270 participant shall disclose the following to the consumer:

271 (a) The name and contact information of the
272 agricultural sandbox participant;

273 (b) That the innovative agricultural product or service
274 is authorized pursuant to the agricultural regulatory sandbox and,
275 if applicable, that the agricultural sandbox participant does not



276 have a license or other authorization to provide an agricultural
277 product or service under state laws that regulate agricultural
278 products outside the agricultural sandbox;

279 (c) That the innovative agricultural product or service
280 is undergoing testing and may not function as intended and may
281 expose the customer to financial risk;

282 (d) That the provider of the innovative agricultural
283 product is not immune from civil liability for any losses or
284 damages caused by the innovative agricultural product or service;

285 (e) That the state does not endorse or recommend the
286 innovative agricultural product or service;

287 (f) That the innovative agricultural product or service
288 is a temporary test that may be discontinued at the end of the
289 testing period;

290 (g) The expected end date of the testing period; and

291 (h) That the consumer may contact the department to
292 file a complaint regarding the innovative agricultural product or
293 service being tested and provide the department's telephone number
294 and website address where a complaint may be filed.

295 (2) The disclosures required by subsection (1) shall be
296 provided to the consumer in a clear and conspicuous form and, for
297 an Internet or application-based innovative agricultural product
298 or service, a consumer shall acknowledge receipt of the disclosure
299 before a transaction may be completed.



300 (3) The department may require that an agricultural sandbox
301 participant make additional disclosure to the consumer.

302 **SECTION 6.** (1) At least thirty (30) days before the end of
303 the twelve-month agricultural regulatory sandbox testing period,
304 an agricultural sandbox participant shall:

305 (a) Notify the department that the agricultural sandbox
306 participant will exit the agricultural regulatory sandbox,
307 discontinue the agricultural sandbox participant's test, and will
308 stop offering any innovative agricultural product or service in
309 the agricultural regulatory sandbox within sixty (60) days after
310 the date on which the twelve-month testing period ends; or

311 (b) Seek an extension in accordance with Section 7 of
312 this act.

313 (2) Subject to subsection (3), if the department does not
314 receive notification as required by subsection (1), the
315 agricultural regulatory sandbox testing period expires at the end
316 of the twelve-month testing period, and the agricultural sandbox
317 participant shall immediately stop offering each innovative
318 agricultural product or service being tested.

319 (3) If a test includes offering an innovative agricultural
320 product or service that requires ongoing duties, the agricultural
321 sandbox participant shall continue to fulfill those duties or
322 arrange for another person to fulfill those duties after the date
323 on which the agricultural product or service on which the



324 agricultural sandbox participant exits the agricultural regulatory
325 sandbox.

326 **SECTION 7.** (1) Not later than thirty (30) days before the
327 end of the twelve-month regulatory agricultural sandbox testing
328 period, an agricultural sandbox participant may request an
329 extension of the agricultural regulatory sandbox testing period
330 for the purpose of obtaining a license or other authorization.

331 (2) The department shall grant or deny a request for an
332 extension in accordance with subsection (1) by the end of the
333 twelve-month agricultural regulatory sandbox testing period.

334 (3) The department may grant an extension in accordance with
335 this section for not more than twelve (12) months after the end of
336 the agricultural regulatory sandbox testing period.

337 (4) An agricultural sandbox participant that obtains an
338 extension in accordance with this section shall provide the
339 department with a written report every three (3) months which
340 provides an update on efforts to obtain a license or other
341 authorization required by law, including any submitted for
342 licensure or other authorization, rejected applications or issued
343 licenses or other authorizations.

344 **SECTION 8.** (1) An agricultural sandbox participant shall
345 retain records, documents and data produced in the ordinary course
346 of business regarding an innovative agricultural product or
347 service tested in the agricultural regulatory sandbox.



348 (2) If an innovative agricultural product or service fails
349 before the end of a testing period, the agricultural sandbox
350 participant shall notify the department and report on actions
351 taken by the agricultural sandbox participant to ensure consumers
352 have not been harmed as a result of the failure.

353 (3) The department shall establish quarterly reporting
354 requirements for an agricultural sandbox participant, including
355 information about any customer complaints.

356 (4) The department may request records, documents and data
357 from an agricultural sandbox participant and, upon the
358 department's request, an agricultural sandbox participant shall
359 make such records, documents and data available for inspection by
360 the department.

361 (5) If the department determines that an agricultural
362 sandbox participant has engaged in, is engaging in, or is about to
363 engage in any practice or transaction that is in violation of this
364 chapter or that constitutes a violation of state or federal
365 criminal law, the department may remove an agricultural sandbox
366 participant from the agricultural regulatory sandbox.

367 (6) By October 1, the department shall provide an annual
368 written report to the Joint Legislative Committee on Performance
369 Evaluation and Expenditure Review (PEER) that provides information
370 regarding each agricultural sandbox participant, and that provides
371 recommendations regarding the effectiveness of the Agricultural
372 Regulatory Sandbox Program.



373 **SECTION 9.** Subject to written authorization by the
374 Mississippi Department of Agriculture and Commerce, an applicant
375 approved by the department for participation in the Agricultural
376 Regulatory Sandbox Program shall be permitted to temporarily test
377 innovative agricultural products or services on a limited basis
378 without otherwise being licensed or authorized to act under the
379 laws of the State of Mississippi.

380 **SECTION 10.** This act shall take effect and be in force from
381 and after July 1, 2022.

