

Regular Session, 2013

# ACT No. 332

HOUSE BILL NO. 664

BY REPRESENTATIVE TERRY LANDRY AND SENATORS ALARIO, AMEDEE, APPEL, BROOME, BROWN, CORTEZ, CROWE, GALLOT, GUILLORY, MILLS, MORRELL, MURRAY, NEVERS, PEACOCK, PERRY, RISER, GARY SMITH, THOMPSON, AND WHITE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 3:1731 through 1735 and 1736(A), (B), and (E) and to enact R.S.  
3 3:1733.1, 1733.2, 1735.1, 1737, and the headings for Parts III and III-A of Chapter  
4 12 of Title 3 of the Louisiana Revised Statutes of 1950, relative to the sweet potato  
5 industry; to provide for sweet potato dealers permits; to provide for the requirements  
6 and applications for such permits; to provide for exceptions, denials, suspensions,  
7 revocations, and probation of such permits; to provide for definitions; to provide for  
8 shipment fees; to provide for rules and regulations; to provide for certificates of  
9 inspection; to provide for the disposition of funds; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 3:1731 through 1735 and 1736(A), (B), and (E) are hereby amended  
12 and reenacted and R.S. 3:1733.1, 1733.2, 1735.1, 1737, and the headings for Parts III and  
13 III-A of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950 are hereby enacted  
14 to read as follows:

15 PART III. SWEET POTATO ~~DISEASES~~ DEALERS

16 §1731. ~~Certificate of inspection required for sweet potato shipments~~ Sweet potato  
17 dealer's permit requirement; application; exception; denial, suspension,  
18 revocation and probation of dealer's permit

19 ~~All sweet potatoes, vines, plants and slips, shipped or moved into, out of, or~~  
20 ~~within the state, shall be accompanied by a certificate of inspection signed by the~~

1 ~~state entomologist.~~ A. All persons, including sweet potato growers and farmers,  
2 commercially growing, selling or offering for sale sweet potatoes shall not grow,  
3 move, clean, grade, pack or repack for sale, or process in any manner sweet potatoes  
4 without a valid sweet potato dealer's permit.

5 B. Applicants for a sweet potato dealer's permit shall complete and file the  
6 application required by the department, which shall set forth the following  
7 conditions:

8 (1) A guarantee to reimburse any purchase price of sweet potatoes which are  
9 confiscated because of sweet potato weevil infestation or unauthorized sale, offer for  
10 sale, or movement.

11 (2) An agreement to permit, at the dealer's cost, the disposal or destruction  
12 by the department or the return to point of origin of any sweet potatoes sold, offered  
13 for sale, moved or moving without authorization, or infested with sweet potato  
14 weevils.

15 (3) A signed agreement to comply with any and all sweet potato quarantine  
16 regulations and any conditions specified in the agreement.

17 C. The provisions of this Section do not apply to retail grocers and other  
18 retail outlets selling or offering for sale sweet potatoes possessing a valid certificate  
19 permit or certificate permit tags indicating that the sweet potatoes have been  
20 inspected, and that are sold or offered for sale directly to the consumer from a  
21 permanent building at a permanent location.

22 D. A sweet potato dealer's permit may be suspended, revoked, or placed on  
23 probation if the holder thereof fails to comply with the provisions of Parts III and  
24 Part III-A of Chapter 12 of this Title or with the provisions of a signed compliance  
25 agreement with the department, subject to a finding in support of such action in a  
26 properly conducted adjudicatory hearing.

27 E. The department may refuse to renew a sweet potato dealer's permit if the  
28 person or business applying for such permit owes unpaid sweet potato fees, taxes,  
29 or civil penalties.

1           §1732. ~~Commissioner of agriculture and forestry to promulgate rules and~~  
 2                                   regulations Terms defined

3           ~~The commissioner of agriculture and forestry shall have full and plenary~~  
 4           ~~power to deal with sweet potato insect pests and diseases which may be prescribed,~~  
 5           ~~controlled, or eradicated; he shall have full power to promulgate and enforce the~~  
 6           ~~rules, ordinances and regulations and to do and perform such acts through agents or~~  
 7           ~~otherwise, as in his opinion may be necessary to control, eradicate, or prevent the~~  
 8           ~~introduction, spread, or dissemination of any and all contagious diseases and insect~~  
 9           ~~pests as far as may be possible and all such rules, ordinances, and regulations shall~~  
 10           ~~have the force of law.~~

11                                   The terms used in Parts III and III-A of this Chapter shall have the following  
 12                                   meanings:

13                                   (1) "Certificate permit" means a written document, stamp, or other form of  
 14                                   identification approved by the department that authorizes the movement, sale, offer  
 15                                   for sale or storage of sweet potato plants, plant products or parts thereof, or regulated  
 16                                   materials.

17                                   (2) "Certificate permit tag" means a tag that authorizes the movement, sale,  
 18                                   or offer for sale or storage of sweet potato plants, plant products or parts thereof, or  
 19                                   regulated materials.

20                                   (3) "Commissioner" means the commissioner of the Department of  
 21                                   Agriculture and Forestry.

22                                   (4) "Department" means the Department of Agriculture and Forestry.

23                                   (5) "Processing plants" means canning, freezing, and dehydrating facilities.

24                                   (6) "Sweet potato" means all plants, plant parts, and plant products in the  
 25                                   genus Ipomoea and any other plants, plant parts, or plant products that commonly are  
 26                                   referred to as sweet potato, that can harbor injurious pests or diseases affecting said  
 27                                   plants, plant parts, and plant products.

28           (R.S. 3:1734) §1733. ~~Investigation to discover diseased sweet potatoes or plants Fee~~  
 29                                   ~~based on~~ for shipment of sweet potatoes or plants; amount

~~The commissioner, his agents and employees, may enter any depot, express office, storeroom, warehouse or premises for the purpose of inspecting any sweet potatoes, vines, plants and slips, therein or thought to be therein for the purpose of ascertaining whether the potatoes, vines, plants and slips, are infected with any contagious or infectious diseases or insect pests which they may have reason to believe have been or are being transported in violation of the provisions of this Part.~~

~~(R.S. 3:1734(A)) For the purpose of carrying out and putting into effect the provisions of this Part,~~ For the purposes of Parts III and III-A of this Chapter, the commissioner of agriculture and forestry may charge a fee of not more than six cents per bushel on every bushel of sweet potatoes moved or shipped within or out of the state and a fee of not more than ten cents per thousand on all vines, plants, and slips moved or shipped within or out of the state. The fees shall be established by rule adopted in accordance with the Administrative Procedure Act.

§1733.1. Promulgation of rules and regulations

In accordance with the Administrative Procedure Act, the commissioner may adopt rules and regulations necessary to enforce the provisions of Part III or III-A of this Chapter.

PART III- A. ~~SWEET POTATO PROMOTION~~ SWEET POTATO PESTS AND DISEASES

~~(R.S. 3:1731)~~ §1733.2. Certificate of inspection required for sweet potato shipments

All sweet potatoes, vines, plants, and slips, shipped or moved into, out of, or within the state; shall be accompanied by a certificate of inspection signed by the state entomologist commissioner.

~~(R.S. 3:1735) §1734.~~ Fee based on shipments of potatoes or plants; Sweet Potato Pests and Diseases Fund; disposition of funds Sale of sweet potatoes for certain purposes prohibited

~~A. For the purpose of carrying out and putting into effect the provisions of this Part, the commissioner of agriculture and forestry may charge a fee of not more than six cents per bushel on every bushel of potatoes moved or shipped within the state and a fee of not more than ten cents per thousand on all vines, plants, and slips.~~

1           ~~The fees shall be established by rule adopted in accordance with the Administrative~~  
 2           ~~Procedure Act.~~

3           ~~B. All assessments, fees, penalties, and other funds received under the~~  
 4           ~~provisions of this Part shall be disposed of in accordance with the following~~  
 5           ~~provisions:~~

6           ~~(1) All assessments, fees, penalties, and all other funds received under the~~  
 7           ~~provisions of this Part, subject to the exceptions contained in Article VII, Section 9~~  
 8           ~~of the Constitution of Louisiana, shall be deposited immediately upon receipt into~~  
 9           ~~the state treasury and shall be credited to the Bond Security and Redemption Fund.~~

10          ~~(2) Out of the funds remaining in the Bond Security and Redemption Fund~~  
 11          ~~after a sufficient amount is allocated from that fund to pay all obligations secured by~~  
 12          ~~the full faith and credit of the state, which become due and payable within any fiscal~~  
 13          ~~year, the treasurer, prior to placing the remaining funds in the state general fund,~~  
 14          ~~shall pay an amount equal to the total amount of funds paid into the state treasury~~  
 15          ~~under the provisions of this Part into a special fund which is hereby created in the~~  
 16          ~~state treasury and designated as the Sweet Potato Pests and Diseases Fund.~~

17          ~~(3) All unexpended and unencumbered monies in the fund at the end of each~~  
 18          ~~fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund~~  
 19          ~~in the same manner as monies in the state general fund. All interest earned on~~  
 20          ~~monies from the fund invested by the state treasurer shall be deposited in the fund.~~

21          ~~(4) Subject to appropriation, the monies in the fund shall be used for the~~  
 22          ~~following purposes:~~

23          ~~(a) To provide for the expenses of the program established by this Part, as~~  
 24          ~~determined by the commissioner of agriculture and forestry.~~

25          ~~(b) To fund any and all costs related to the carrying out of the powers and~~  
 26          ~~duties granted to the commissioner of agriculture and forestry under this Part to~~  
 27          ~~control sweet potato pests and diseases. In order to prevent the spread of sweet~~  
 28          ~~potato weevils, no person shall sell or provide raw sweet potatoes for the purpose of~~  
 29          ~~feeding, offering to feed, or depositing for food the sweet potatoes to wild game~~  
 30          ~~quadrupeds.~~

1           ~~§1735. Sale of sweet potatoes for certain purposes prohibited~~  
 2           ~~(R.S. 3:1732) Commissioner of agriculture and forestry to promulgate~~ Promulgation  
 3                           of rules and regulations

4                       ~~In order to prevent the spread of sweet potato weevils, no person shall sell or~~  
 5           ~~provide raw sweet potatoes for the purpose of feeding, offering to feed, or depositing~~  
 6           ~~for food the sweet potatoes to wild game quadrupeds. The commissioner of~~  
 7           ~~agriculture and forestry shall have full and plenary power to deal with sweet potato~~  
 8           ~~pests and diseases which that may be prescribed, controlled, or eradicated; he~~  
 9           ~~eradicated. He shall have full power to promulgate and enforce the rules, ordinances,~~  
 10           ~~and regulations and to do and perform such acts through agents or otherwise, as in~~  
 11           ~~his opinion may be necessary to control, eradicate, or prevent the introduction,~~  
 12           ~~spread, or dissemination of any and all contagious diseases and pests as far as may~~  
 13           ~~be possible and all such rules, ordinances, and regulations shall have the force of~~  
 14           ~~law.~~

15           ~~(R.S. 3:1733) §1735.1. Investigation to discover diseased or infested~~ sweet potatoes  
 16                           or plants

17                       The commissioner, his agents and employees, may enter any depot, express  
 18           office, storeroom, warehouse or premises for the purpose of inspecting any sweet  
 19           potatoes, vines, plants, and slips, therein or thought to be therein for the purpose of  
 20           ascertaining whether the sweet potatoes, vines, plants, and slips are infected with any  
 21           contagious or infectious diseases or pests ~~which that~~ they may have reason to believe  
 22           have been or are being transported in violation of the provisions of this Part.

23           §1736. Penalty for violations

24                       A. A violator of any provision of ~~this Part III or III-A of this Chapter~~ or of  
 25           any rule or regulation adopted under the provisions of ~~this Part III or III-A of this~~  
 26           Chapter shall be subject to a civil penalty of not more than five thousand dollars for  
 27           each act of violation and for each day of violation. Each day on which a violation  
 28           occurs shall be a separate offense.

1           B. Penalties may be assessed only by a ruling of the commissioner ~~of the~~  
2           ~~Department of Agriculture and Forestry~~ based upon an adjudicatory hearing held in  
3           accordance with the provisions of the Administrative Procedure Act.

4   \*       \*       \*

5           E. The commissioner may institute civil proceedings seeking injunctive  
6           relief to restrain and prevent the violation of the provisions of ~~this Part~~ III or III-A  
7           of this Chapter, or of the rules and regulations adopted under the provisions of ~~this~~  
8           ~~Part~~ Parts III and III-A of this Chapter , in the district court for the parish in which  
9           the violation occurred.

10          §1737. ~~Fee based on shipments of potatoes or plants;~~ Sweet Potato Pests and  
11          Diseases Fund; disposition of funds

12                                   (R.S. ~~3:1734(B)~~) A. All assessments, fees, penalties, and other funds  
13          received under the provisions of ~~this Part~~ Parts III and III-A of this Chapter shall be  
14          disposed of in accordance with the following provisions:

15                                   (1) All assessments, fees, penalties, and all other funds received under the  
16          provisions of ~~this Part~~ Parts III and III-A of this Chapter, subject to the exceptions  
17          contained in Article VII, Section 9 of the Constitution of Louisiana, shall be  
18          deposited immediately upon receipt into the state treasury and shall be credited to the  
19          Bond Security and Redemption Fund.

20                                   (2) Out of the funds remaining in the Bond Security and Redemption Fund  
21          after a sufficient amount is allocated from that fund to pay all obligations secured by  
22          the full faith and credit of the state, which become due and payable within any fiscal  
23          year, the treasurer, prior to placing the remaining funds in the state general fund,  
24          shall pay an amount equal to the total amount of funds paid into the state treasury  
25          under the provisions of ~~this Part~~ Parts III and III-A of this Chapter into a special fund  
26          which is hereby created in the state treasury and designated as the Sweet Potato Pests  
27          and Diseases Fund.

28                                   (3) All unexpended and unencumbered monies in the fund at the end of each  
29          fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund

1 in the same manner as monies in the state general fund. All interest earned on  
2 monies from the fund invested by the state treasurer shall be deposited in the fund.

3 ~~(R.S. 3:1734(B)(4))~~ B. Subject to appropriation, the monies in the fund shall  
4 be used for the following purposes:

5 (1) To provide for the expenses of the program established by ~~this Part~~ Parts  
6 III and III-A of this Chapter, as determined by the commissioner of ~~agriculture and~~  
7 ~~forestry~~.

8 (2) To fund any and all costs related to the carrying out of the powers and  
9 duties granted to the commissioner of ~~agriculture and forestry~~ under ~~this Part~~ Parts  
10 III and III-A of this Chapter ~~to control sweet potato pests and diseases~~.

11 Section 2. The Louisiana State Law Institute is hereby authorized and directed to  
12 designate R.S. 3:1741 through 1748, as "Part III-B. Sweet Potato Promotion".

13 Section 3. This Act shall become effective upon signature by the governor or, if not  
14 signed by the governor, upon expiration of the time for bills to become law without signature  
15 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
16 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
17 effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_