

CHAPTER 12. PLANT DISEASES

PART I. BOLL WEEVIL ERADICATION LAW

§1601. Short title

This Part may be cited as the "Louisiana Boll Weevil Eradication Law".

Acts 1992, No. 58, §1.

§1602. Legislative findings and purpose

The legislature hereby finds and declares that the boll weevil has for many years been a public nuisance, a pest, and a menace to the cotton industry. The boll weevil has caused the destruction of vast quantities of cotton and thereby imposed severe economic losses upon cotton producers in the state. Due to the interstate nature of the boll weevil infestation, it is necessary to secure the cooperation of cotton producers and other state and federal governments to carry out a program of boll weevil suppression and eradication. The purpose of this Part is to secure the suppression or eradication of the boll weevil and to cooperate with state and federal agencies in the administration of cost-sharing programs for the suppression or eradication of the boll weevil.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1603. Definitions

As used in this Part, the following terms shall have the following meanings, except where the context expressly indicates otherwise:

(1) "Affected cotton producer" means a cotton producer as defined herein and the term "affected cotton producer" as used herein shall also include landlords of share tenants and landlords of cash tenants.

(2) *Repealed by Acts 2019, No. 185, §2, eff. June 11, 2019.*

(3) "Boll weevil" means any *Anthonomus grandis* Boheman in any stage of development.

(4) "Certificate" means a document issued or authorized by the commissioner indicating that a regulated article is not contaminated with boll weevils.

(5) "Commission" means the Louisiana Boll Weevil Eradication Commission established in this Part.

(6) "Commissioner" means the commissioner of the Department of Agriculture and Forestry, or his duly authorized designee.

(7) "Cotton" means any cotton plant or cotton plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.

(8) "Cotton producer" means any person who is actively and directly engaged in the production, planting, growing, or farming of cotton for market, or otherwise actively causing cotton to be produced for market.

(9) "Department" means the Louisiana Department of Agriculture and Forestry.

(10) "Eradication zone" means any area or areas of the state, designated by the commissioner, where boll weevil eradication programs will be undertaken.

(11) "Host" means any plant or plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.

(12) "Infested" means actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.

(13) "Move" means to ship, offer for shipment, deposit for transmission by mail, receive for transportation, carry, or otherwise transport, move or allow to be moved.

(14) "Noncommercial cotton" means any cotton intended for purposes other than processing, including but not limited to cotton planted for ornamental purposes and volunteer cotton.

(15) "Permit" means a document issued or authorized by the commissioner to provide for the movement of regulated articles to restricted designations for limited handling, utilization, or processing.

(16) "Person" means any individual, firm, company, corporation, partnership, society, association, or other business or public entity.

(17) "Regulated article" means any article of any character carrying or capable of carrying the boll weevil, including but not limited to cotton plants, seed cotton, cottonseed, other hosts, gin trash, gin equipment, mechanical cotton pickers, and other equipment associated with cotton production, harvesting, or processing.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1; Acts 2019, No. 185, §2, eff. June 11, 2019.

§1604. Boll Weevil Eradication Commission

A. In accordance with R.S. 36:901, the Boll Weevil Eradication Commission is hereby created within and is transferred to the Department of Agriculture and Forestry and shall consist of eight members as follows:

(1) Two cotton producers appointed by the commissioner from a list of six persons nominated by the Louisiana Farm Bureau Federation.

(2) Two cotton producers appointed by the commissioner from a list of six persons nominated by the Louisiana Cotton and Grain Association.

(3) One cotton producer to be appointed by the commissioner from a list of nominees submitted by the chairman of the House Committee on Agriculture, Forestry, Aquaculture and Rural Development and a list of nominees submitted by the chairman of the Senate Committee on Agriculture, Forestry, Aquaculture and Rural Development.

(4) The Louisiana State University Vice President for Agriculture, or his designee, who shall serve as an ex officio member in an advisory capacity.

(5) A member of the Louisiana Agricultural Consultants Association selected by the executive board of the association, who shall serve as an ex officio member in an advisory capacity.

(6) The commissioner, or his designee, who shall serve as an ex officio member and shall have all of the same rights and responsibilities as the appointed members.

B. The commissioner shall appoint an alternate member for each member he appoints. The alternate member shall be appointed from the same list of nominees and in the same manner as the appointed member. Any designee or alternate who attends a meeting as a representative of a member shall have the same rights, powers, and privileges, including voting rights, as the member he represents.

C. In the event that any cotton producer member of the commission ceases to be a cotton producer, that member shall not be eligible to continue membership on the commission, and his alternate member shall fill the member's vacancy, on an interim basis, until such time as the vacancy is filled as provided in Subsection G of this Section.

D. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

E. Members shall serve terms concurrent with the commissioner making the appointment. The organizations authorized to make nominations for appointment to the commission shall file the initial list of nominees for appointment within thirty days after August 21, 1992. Thereafter, each organization shall file

a list of nominees with the commissioner no later than June thirtieth of the year of the governor's inauguration.

F. The commissioner shall make all appointments no later than thirty days following the last day for submission of lists of nominees.

G. Whenever a vacancy of a member or alternate member occurs, the organization authorized to make nominations for appointment to the vacant position shall submit another list of nominees to the commissioner within thirty days of receipt of notice of the vacancy, and the commissioner shall appoint a nominee from the list to fill the vacancy of the member or alternate member. In the event of any failure to submit a list of nominees, the commissioner shall submit a person of his choice to the Senate for confirmation.

H. All books and records of account and minutes of proceedings of the commission shall be available for inspection and audit by the legislative auditor at any reasonable time.

I. The commissioner, upon recommendation of the commission, may appoint, subject to Senate confirmation, a director who shall be in the unclassified service of the state. The commissioner may employ all personnel necessary for the efficient and proper administration of this Part.

J. Members or alternate members of the commission shall not receive any salary or per diem for performing their duties as members. Members may receive a mileage allowance for mileage traveled in attending meetings, at a rate not to exceed that paid to state employees.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1; Acts 2003, No. 116, §1, eff. May 28, 2003; Acts 2008, No. 64, §1, eff. June 5, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2012, No. 310, §1, eff. May 25, 2012; Acts 2019, No. 185, §1, eff. June 11, 2019.

§1604.1. Powers and duties of the commission and commissioner

A. The commission shall have the following powers:

- (1) To conduct investigations and hold hearings on alleged violations of rules or regulations of this Part.
- (2) To advise the commissioner of the requirements involved in eradicating and controlling boll weevils.
- (3) To advise the commissioner as to the findings of the commission.
- (4) To advise the commissioner on the penalties to be imposed or the injunctive relief to be sought for violations.
- (5) To adopt rules or regulations concerning quarantines, eradication zones, movement of regulated articles, regulation of activities affecting the boll weevil eradication program, and such other rules or regulations authorized by this Part.

(6), (7) *Repealed by Acts 2019, No. 185, §2, eff. June 11, 2019.*

(8) To adopt rules or regulations needed for the commission to carry out its duties and responsibilities pursuant to this Part.

B. The commissioner shall have the following powers:

- (1) To administer and enforce the provisions and the rules or regulations adopted pursuant to this Part.
- (2) To enter into any cooperative endeavor or cooperative agreement with any federal, state, or local agency as he deems necessary to further the purposes of this Part.

(3), (4) *Repealed by Acts 2019, No. 185, §2, eff. June 11, 2019.*

(5) To enter property to conduct inspections, examine and copy records, and carry out suppression or eradication activities as provided in this Part.

(6) To make final determinations regarding violations of any provision of this Part or of the rules or regulations adopted pursuant to this Part and to impose penalties for any such violations.

(7) To institute civil proceedings to enforce orders or rulings or other civil relief to collect any late fees, fines, penalties or costs due under this Part or otherwise enforce the provisions of this Part or rules or regulations adopted pursuant to this Part.

(8) To exercise any power authorized by this Part and to adopt rules or regulations necessary to carry out the duties and responsibilities pursuant to this Part.

Acts 2008, No. 64, §1, eff. June 5, 2008; Acts 2019, No. 185, §§1, 2, eff. June 11, 2019.

§1605. Cooperative agreements

The commissioner, through the commission, is authorized to carry out programs to suppress or eradicate the boll weevil in the state. The commissioner is authorized to cooperate with any agency of the federal government, any state, any other agency in the state or in the region, or any person engaged in growing, processing, marketing, handling cotton, or any group of such persons in programs to effectuate the purposes of this Part and may enter into written agreements, including cooperative endeavor agreements, to effectuate such purposes. Such agreements may provide for cost sharing, and for division of duties and responsibilities under this Part and may include other provisions generally to effectuate the purposes of this Part.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1606. Entry of premises; eradication activities; inspections

A. The commissioner may enter cotton fields, cotton processing facilities, any means of conveyance within this state, and any other property or premises, other than dwellings, to inspect for boll weevil infestations, to examine and copy records, and to carry out suppression or eradication activities, including but not limited to treatment with pesticides, sampling, monitoring, and destruction of growing cotton or other host plants, as may be necessary to carry out the provisions of this Part.

B. In circumstances not covered by Subsection A of this Section, the commissioner may apply to the district court for the parish in which the entry is to occur for a warrant or warrants authorizing the right of entry to any dwelling for the purpose of carrying out the provisions of this Section or other activities authorized by this Part.

C. The commissioner may issue subpoenas to compel the attendance of witnesses or the production of records or things anywhere in the state at a deposition or at a hearing before the commission for the purposes of carrying out the provisions of this Part.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1607. Reports

Every person growing cotton in the state shall furnish to the commissioner, on forms specified by the commissioner, such information as the commissioner may require concerning the size and location of all commercial cotton fields and of noncommercial patches of cotton grown as ornamentals or grown for any other purposes.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1608. Quarantine; rules and regulations

A. The commission may adopt rules and regulations concerning quarantines including procedures for quarantining, the storage or other handling of regulated articles, and the movement of regulated articles into or from quarantined areas.

B. The commission shall determine when such action is necessary, or appears reasonably necessary, to prevent or retard the spread of the boll weevil.

C. The commission may adopt rules and regulations governing the movement of articles from other states or portions thereof into this state when such state is known to be infested with the boll weevil.

D. The adoption of all rules and regulations shall be done in accordance with the Administrative Procedure Act and sound principles of quarantine.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1609. Eradication zones; participation in eradication program; penalty fees

A. The commission may designate by rule or regulation, one or more areas of the state as eradication zones where boll weevil eradication programs will be undertaken.

B. The commission may adopt rules and regulations regarding areas where cotton cannot be planted within an eradication zone when there is reason to believe it will jeopardize the success of the program or present a hazard to public health or safety.

C. The commission may adopt rules and regulations prohibiting the planting of noncommercial cotton in such eradication zones, and requiring that all cotton producers of commercial cotton in the eradication zones participate in a program of boll weevil eradication as prescribed in the rules and regulations. Notice of such prohibition and requirement shall be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

D. The commission may set, by rule or regulation, a reasonable schedule of penalty fees to be assessed when cotton producers in designated eradication zones do not meet the requirements of rules or regulations adopted by the commission with respect to reporting of acreage as prescribed by regulation. Such penalty fees shall not exceed a charge of twenty-five dollars per acre per year.

E. When a cotton producer fails to meet the requirements of rules and regulations adopted by the commission, the commissioner may destroy cotton in eradication zones which is not in compliance with such rules and regulations, provided notification of such proposed action by the commissioner, not less than twenty-one days prior to such action being taken, has been properly filed and maintained in accordance with the central registry provisions of R.S. 3:3651 et seq., and any secured party of any cotton producer has been notified by the commissioner of such proposed action by registered or certified mail, return receipt requested, within said delay. Costs incurred by the commissioner shall be assessed against the cotton producer.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1; Acts 2019, No. 185, §1, eff. June 11, 2019.

§1610. Destruction or treatment of cotton in eradication zones

A. The commissioner may destroy or, at his discretion, cause to be treated with pesticides, volunteer or other noncommercial cotton and may establish procedures for the purchase and destruction of commercial cotton in eradication zones when the commissioner deems such action necessary to effectuate the purposes of this Part.

B. No payment shall be due from or made by the commissioner to anyone, including the cotton producer, owner, or lessee for the destruction or injury of any cotton which was planted in an eradication zone after publication of notice as provided in this Part, or was otherwise handled in violation of this Part, or the rules and regulations adopted under the provisions of this Part.

C. The commissioner shall pay for losses resulting from the destruction of cotton which was planted in such zones prior to publication of such notice.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1611. Rules and regulations

A. The commission may adopt rules and regulations prohibiting or restricting the pasturage of livestock, entry by persons, and location of honeybee colonies or other activities affecting the boll weevil eradication program in any premises in an eradication zone which have been or are to be treated with pesticides or otherwise treated to cause the eradication of the boll weevil, or in any other area that may be affected by such treatments.

B. The commission may adopt such other rules and regulations as it deems necessary to further effectuate the purposes of this Part. The adoption of all rules and regulations under the provisions of this Part shall be done in accordance with the Administrative Procedure Act.

Acts 1992, No. 58, §1.

§1612. Penalties

A. Any person who violates any of the provisions of this Part or the rules or regulations adopted under the provisions of this Part, or who alters, forges, or counterfeits, or uses without authority, any certificate or permit or other document provided for in this Part or in the rules or regulations adopted under the provisions of this Part, or who, except in compliance with the rules or regulations adopted by the commission, moves any regulated article which the commissioner found is infested by the boll weevil into this state from any other state shall be subject, in addition to any unpaid fees associated with the eradication program, to a civil penalty of not more than five thousand dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

C. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the violator. The commissioner, by rule, shall determine the amount of costs to be assessed.

D. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

E. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Part, or of the rules and regulations adopted under the provisions of this Part, in the district court for the parish in which the violation occurred.

Acts 1992, No. 58, §1; Acts 2019, No. 185, §1, eff. June 11, 2019.

§1612.1. Disposition of funds

A. All fees, penalties, and other funds received under the provisions of this Part shall be disposed of in accordance with the following provisions:

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

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the commission under the provisions of this Part into the Horticulture and Quarantine Fund.

(3) All unexpended and unencumbered monies received from fees and penalties in the fund at the end of each fiscal year shall remain in the Horticulture and Quarantine Fund. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

B. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part and the expenses of the office of agricultural and environmental sciences, as determined by the commissioner.

(2) To fund any and all costs related to the eradication of boll weevils, utilizing any or all powers granted to the commissioner or the department.

Acts 2019, No. 185, §1, eff. June 11, 2019.

§§1613 - 1617. *Repealed by Acts 2019, No. 185, §2, eff. June 11, 2019.*

§§1621 - 1642. *Repealed by Acts 1982, No. 198, §6, eff. Jan. 1, 1983.*

PART II. CROP PESTS AND DISEASES

§1651. Distribution of entomological work between entomologist of experiment stations and state entomologist

A. All of the entomological work of the state relating to demonstration, inspection, and quarantine work shall be conducted by the Department of Agriculture and Forestry and all of the investigational, experimental, and research work of an entomological nature shall be conducted by the experiment stations of Louisiana State University Agricultural Center. The head of the Department of Entomology at the Louisiana State University Agricultural Center shall have charge and direction of the entire entomological work of the stations.

B. There shall be a state entomologist appointed by the commissioner of agriculture and forestry who shall have charge of the entomological work of the department. The state entomologist shall be under the supervision and control of the commissioner of agriculture and forestry.

Amended by Acts 1952, No. 272, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§1652. Power of the Department of Agriculture and Forestry to control pests and diseases; rules and regulations; restricting importation

The Department of Agriculture and Forestry shall have full and plenary power to deal with all crop and fruit pests and such contagious and infectious crop and fruit diseases as in the opinion of the entomologist, may be prevented, controlled, or eradicated; with full power to make, promulgate and enforce such rules, ordinances and regulations, and to do and perform such acts as, in the judgment of the entomologist, may be necessary to control, eradicate, or prevent the introduction, spread, or dissemination of all injurious crop and fruit pests and diseases. The rules, ordinances and regulations of the department shall have the force and effect of law five days after their promulgation in the official journal of the state. The department may prohibit or regulate the shipment or bringing into this state of any plants, farm products, or other articles of any nature or character whatsoever from any state, territory, or foreign country, when in the opinion of the entomologist the prohibition or regulation is necessary.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§1653. Penalty for violating rules and regulations; enforcement of rules and regulations in court

A. A violator of any provisions of this Part or of any rule or regulation adopted under the provisions of this Part shall be subject to a civil penalty of not more than five thousand dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

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

C. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner, by rule, shall determine the amount of costs to be assessed.