

1 HB355
2 166064-2
3 By Representatives Sessions, Wilcox and Williams (JW)
4 RFD: Agriculture and Forestry
5 First Read: 31-MAR-15

1 ENGROSSED

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3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Sections 2-2-33 and 2-2-35 of the Code of
9 Alabama 1975, relating to the Department of Agriculture and
10 Industries; to authorize tests or analyses required to be
11 performed by the department to be performed by laboratories of
12 the federal government or any other state government; and to
13 amend Sections 2-15-210, 2-16-20, 2-21-26, 2-26-4, 2-27-33,
14 8-16-5, and 8-17-81, Code of Alabama 1975, to conform to this
15 act.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 2-2-33 and 2-2-35 of the Code of
18 Alabama 1975, are amended to read as follows:

19 "§2-2-33.

20 "(a) Whenever it shall be necessary to have any
21 tests or analyses made in order to properly execute any law or
22 rule and regulation under authority of law, the execution or
23 administration of which is a duty imposed on the commissioner
24 or the State Board of Agriculture and Industries, the
25 commissioner shall make such tests or analyses or cause to be
26 made such tests or analyses by employees of the Department of

1 Agriculture and Industries or as otherwise provided in
2 subsection (b).

3 "(b) The commissioner, with approval of the State
4 Board of Agriculture and Industries, may enter into agreements
5 delegating the responsibility for laboratory tests or analyses
6 to any laboratory operated by the United States government or
7 any other state government. The commissioner may use the
8 results of tests or analyses performed by these laboratories
9 for the execution or administration of any law or rule imposed
10 on the commissioner or the State Board of Agriculture and
11 Industries.

12 "§2-2-35.

13 "A certificate of analysis or examination by the
14 chemist who is the supervisor or director of the laboratory of
15 the Department of Agriculture and Industries or other
16 laboratory utilized by the commissioner as provided in Section
17 2-2-33 in which ~~such~~ the analysis or examination is made, when
18 properly verified by affidavit, shall be admissible and shall
19 be prima facie evidence of the facts therein stated in any of
20 the courts of this state on the trial of any issue involving
21 the merits, and the quality of the bulk from which the sample
22 was taken shall prima facie be presumed to be the same as the
23 quality of the sample as shown by the analysis or
24 examination."

25 Section 2. Sections 2-15-210, 2-16-20, 2-21-26,
26 2-26-4, 2-27-33, 8-16-5, and 8-17-81, Code of Alabama 1975,
27 are amended to read as follows:

1 "§2-15-210.

2 "(a) The Department of Agriculture and Industries ~~is~~
3 ~~hereby authorized to~~ may establish, conduct and maintain a
4 swine disease diagnostic laboratory for the purpose of
5 diagnosing contagious, infectious and communicable diseases of
6 swine owned by producers of such livestock in Alabama, and the
7 amount appropriated and made available for such purpose in the
8 general appropriations act shall be used and expended by the
9 Department of Agriculture and Industries to establish, operate
10 and conduct such a laboratory.

11 "~~(b) Any funds appropriated and made available by~~
12 ~~the Legislature to the Department of Agriculture and~~
13 ~~Industries for~~ Testing for swine disease may be performed at a
14 swine disease diagnostic laboratory ~~for the purposes set forth~~
15 ~~in this section shall be expended by said department to~~
16 ~~establish and conduct such a laboratory at a location in the~~
17 State of Alabama to be designated by the State Board of
18 Agriculture and Industries or as otherwise provided in Section
19 2-2-33.

20 "§2-16-20.

21 "(a) The Commissioner of Agriculture and Industries,
22 with approval of the State Board of Agriculture and
23 Industries, ~~is authorized and empowered to~~ may establish,
24 conduct and maintain poultry disease diagnostic laboratories
25 for the purpose of diagnosing, treating, eradicating,
26 preventing and controlling infectious and contagious diseases
27 of poultry. The laboratories provided for in this section

1 shall be located at places in the State of Alabama where they
2 will best serve the farmers engaged in the production of
3 poultry, and such locations shall be selected by the
4 Commissioner of Agriculture and Industries with approval of
5 the State Board of Agriculture and Industries. Such
6 laboratories shall be staffed and operated by qualified
7 personnel who are employees of the state Department of
8 Agriculture and Industries.

9 "(b) In addition to testing and analysis as provided
10 in subsection (a), testing and analysis may be performed as
11 otherwise provided in Section 2-2-33.

12 "§2-21-26.

13 "(a) For the purpose of enforcement of this chapter
14 and in order to determine whether its provisions have been
15 complied with, including whether or not any operations may be
16 subject to such provisions, officers or employees duly
17 designated by the commissioner, upon presenting appropriate
18 credentials to the owner, operator or agent in charge, are
19 authorized:

20 "(1) To enter, during normal business hours, any
21 factory, warehouse or establishment within the state in which
22 commercial feeds are manufactured, processed, packed or held
23 for distribution, or to enter any vehicle being used to
24 transport or hold such feeds; and

25 "(2) To inspect at reasonable times and within
26 reasonable limits and in a reasonable manner, such factory,
27 warehouse, establishment or vehicle and all pertinent

1 equipment, finished and unfinished materials, containers and
2 labeling therein. The inspection may include the verification
3 of only such records, and production and control procedures as
4 may be necessary to determine compliance with the good
5 manufacturing practice regulations established under
6 subdivision (4) of Section 2-21-22.

7 "(b) Each inspection shall be commenced and
8 completed with reasonable promptness. Upon completion of the
9 inspection, the person in charge of the facility or vehicle
10 shall be so notified and presented a copy of the inspection
11 report, which will include a record of all samples taken.

12 "(c) If the officer or employee making such
13 inspection of a factory, warehouse, or other establishment has
14 obtained a sample in the course of the inspection, upon
15 completion of the inspection and prior to leaving the premises
16 he shall offer to leave with the owner-operator, or agent in
17 charge, a duplicate sample.

18 "(d) If the owner of any factory, warehouse or
19 establishment described in subsection (a) of this section, or
20 his agent, refuses to admit the commissioner or his agent to
21 inspect in accordance with subsections (a) and (b) of this
22 section, the commissioner is authorized to obtain from any
23 state court a warrant directing such owner or his agent to
24 submit the premises described in such warrant to inspection.

25 "(e) For the purpose of the enforcement of this
26 chapter, the commissioner or his duly designated agent is
27 authorized to enter upon any public or private premises

1 including any vehicle of transport during regular business
2 hours to have access to, to obtain samples and to examine
3 records relating to distribution of commercial feeds.

4 "(f) Sampling and analysis shall be conducted in
5 accordance with methods published by the Association of
6 Official Analytical Chemists, or in accordance with other
7 generally recognized methods approved by the commissioner.
8 Testing and analysis may be performed as otherwise authorized
9 in Section 2-2-33.

10 "(g) The results of all analyses of official samples
11 revealing deficiencies shall be forwarded by the commissioner
12 to the person named on the label and to the purchaser when he
13 can be located. When the inspection and analysis of an
14 official sample indicates a commercial feed is in violation of
15 the provisions of this chapter and upon request within 30 days
16 following receipt of the analysis, the commissioner shall
17 furnish to the licensee a portion of the sample concerned.

18 "(h) The commissioner, in determining for
19 administrative purposes whether a commercial feed is deficient
20 in any component, shall be guided by the permitted analytical
21 variation as defined in subdivision (16) of Section 2-21-17
22 and obtained and analyzed as provided for in subsections (c),
23 (e) and (f) of this section.

24 "(i) Penalties may be invoked if the analysis of a
25 sample shows a deviation from "permitted analytical variation"
26 established by the commissioner and established in rules and
27 regulations promulgated pursuant to this chapter.

1 "(j) For repeated or flagrant violations, the
2 commissioner may cancel the manufacturer's license.

3 "(k) Samples and portions of samples shall be
4 retained according to sample retention times established by
5 the commissioner in the rules and regulations.

6 "§2-26-4.

7 "(a) There shall be established within the
8 Department of Agriculture and Industries a seed division which
9 shall maintain facilities, equipment and qualified personnel
10 to perform the seed testing, sampling and analysis work
11 required to execute the provisions and requirements of this
12 article. Any testing or analysis required to be performed may
13 be performed as provided in Section 2-2-33. The seed division
14 established and created under this section shall also perform
15 the administrative, clerical and other work incident to the
16 administration and enforcement of the provisions and
17 requirements of this article and such seed testing and
18 administrative duties shall not be performed by any other
19 division of the Department of Agriculture and Industries;
20 except, that the State Board of Agriculture and Industries
21 shall have the authority to enter into an agreement delegating
22 the responsibility for the testing of tree and shrub seed to
23 the United States Forest Service or any other seed laboratory
24 designated and approved by the State Board of Agriculture and
25 Industries ~~and as otherwise authorized in Section 2-2-33.~~

26 "(b) The responsibility for the enforcement of the
27 rules and regulations governing the sale or distribution of

1 tree or shrub seed within the state shall be the sole
2 responsibility of the state Department of Agriculture and
3 Industries.

4 "§2-27-33.

5 "(a) In addition to the powers and authority
6 heretofore authorized by law pursuant to Sections 2-27-30,
7 2-27-31 and 2-27-32, the pesticide residue laboratory
8 heretofore established and now operated by the Department of
9 Agriculture and Industries at Auburn University shall also be
10 authorized to obtain reliable analysis of raw and processed
11 agricultural products and other food products, fish, game and
12 other wildlife to detect the presence of any harmful drug
13 residues for the protection of public health, to aid in
14 developing and expanding markets for agricultural products and
15 for the protection and production of fish and wildlife and
16 related purposes, which activities shall be in addition to the
17 duties as now authorized by law for the operation of such
18 laboratory.

19 "(b) In addition to the testing and analysis
20 authorized in subsection (a), testing and analysis may be
21 performed as authorized in Section 2-2-33.

22 "§8-16-5.

23 "(a) The state standards of weights and measures
24 shall be kept by the Commissioner of Agriculture and
25 Industries in a safe and suitable place in his office, from
26 which they shall not be removed except for repairs.

1 "(b) With respect to the state standards of weights
2 and measures, the Commissioner of Agriculture and Industries
3 shall have the following duties:

4 "(1) He shall maintain such standards in good order.

5 "(2) He shall replace such standards as are
6 incorrect and purchase such additional standards as shall be
7 necessary to complete and make up a complete standard of
8 weights and measures.

9 "(3) He shall purchase such apparatus as shall be
10 found necessary to a proper prosecution of the work of the
11 office, to be known as working standards.

12 "(4) He shall compare such working standards with
13 the state standards at such times as he shall deem necessary
14 to prove the accuracy of the working standards; and

15 "(5) He shall keep a record of all standards and
16 other apparatus belonging to the state for the purposes of
17 this chapter.

18 "(6) The commissioner shall maintain traceability of
19 the state standards to the national bureau of standards.

20 "(c) Weights and measures that are traceable to the
21 U.S. prototype standards supplied by the federal government,
22 or approved as being satisfactory by the national bureau of
23 standards, shall be the state primary standards of weights and
24 measures, and shall be maintained in such calibration as
25 prescribed by the national bureau of standards. All secondary
26 standards may be prescribed by the commissioner and shall be

1 verified upon their initial receipt, and as often thereafter
2 as deemed necessary by the commissioner.

3 "(d) Any testing or analysis required to be
4 performed may be performed as provided in Section 2-2-33.

5 "§8-17-81.

6 "(a) The Board of Agriculture and Industries shall
7 have the power and duty to:

8 "(1) Determine and adopt standards of minimum
9 specifications for petroleum products, and the various
10 classifications and kinds thereof, as to safety, purity,
11 freedom from objectionable substances, distillation tests,
12 heat-producing qualities, fire tests, and efficiency which are
13 not inconsistent with the specifications for the same products
14 that are published from time to time by the United States
15 Department of Commerce; and

16 "(2) Make changes from time to time in such
17 standards, all as the board may deem necessary to provide for
18 the public safety and to provide that such petroleum products
19 are satisfactory and efficient for the purposes for which they
20 may be sold, offered for sale, stored, or used in the state;
21 provided, that such standards shall not be adopted or altered
22 by the board until after a specified date when any person in
23 interest may appear before the board with reference to such
24 standards.

25 "(b) The Board of Agriculture and Industries shall
26 prescribe the methods of tests to be used in determining
27 whether or not petroleum products are in compliance with such

1 standards as shall be adopted as authorized in this section.
2 Any testing and analysis required to be performed may be
3 performed as provided in Section 2-2-33.

4 "(c) The Board of Agriculture and Industries shall
5 have authority to promulgate rules and regulations necessary
6 to secure the safe handling of petroleum products and other
7 such rules and regulations not inconsistent with the
8 provisions of this division as in the judgment of the board
9 may be necessary to the proper enforcement of this division.

10 "(d) The standards of minimum specifications
11 heretofore promulgated by the Board of Agriculture and
12 Industries pursuant to authorization in either Article 21 of
13 Chapter 1 of Title 2 of the Code of Alabama of 1940, or
14 Division 2 of Article 26 of the said Chapter 1, shall
15 constitute the standards of minimum specifications applicable
16 under this division until such time as the board shall adopt
17 standards pursuant to the provisions of this division."

18 Section 3. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Agriculture and
Forestry..... 31-MAR-15

Read for the second time and placed
on the calendar 1 amendment 09-APR-15

Read for the third time and passed
as amended..... 23-APR-15

Yeas 100, Nays 0, Abstains 0

Jeff Woodard
Clerk