

CHAPTER 79

(HB 192)

AN ACT relating to cotton.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 16 of this Act, unless the context requires otherwise:

- (1) *"Association" means any commission, council, board, or other body;*
- (2) *"Boll weevil" means *Anthonomus grandis* Boheman in any stage of development;*
- (3) *"Commissioner" means the Commissioner of Agriculture or the Commissioner's designee;*
- (4) *"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;*
- (5) *"Cotton grower" means any person who is engaged in and has an economic risk in the business of producing, or causing to be produced, cotton for market;*
- (6) *"Host" means any plant or plant product upon which the boll weevil is dependent for completion of any portion of its life cycle;*
- (7) *"Infested" means actually infested with a boll weevil, or so exposed to infestation that it would be reasonable to believe that an infestation exists; and*
- (8) *"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, other hosts, gin trash, and mechanical cotton pickers.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

- (1) *The Commissioner shall carry out programs to destroy and eliminate boll weevils in this state.*
- (2) *The Commissioner may cooperate with any agency of the federal government, any state, any other agency in this state, or any person or group of persons engaged in growing, processing, marketing, or handling cotton in order to carry out the purposes of Sections 1 to 16 of this Act, and may enter into written agreements to carry out those purposes. The agreements may provide for cost-sharing and for division of duties and responsibilities under Sections 1 to 16 of this Act, and may include other provisions generally to carry out the purposes of Sections 1 to 16 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

- (1) *The Commissioner may enter cotton fields and other premises in order to carry out certain activities, including but not limited to treatment with pesticides and monitoring as may be necessary to carry out Sections 1 to 16 of this Act.*
- (2) *The Commissioner may inspect any fields or premises in this state and any property located on the premises for the purpose of determining whether the property is infested. The inspection and other activities may be conducted at any reasonable hours between sunrise and sunset.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every person growing cotton in this state shall furnish to the Commissioner, on forms supplied by the Commissioner, information that the Commissioner requires regarding the size and location of all commercial cotton fields and of noncommercial patches of cotton grown as ornamentals or for other purposes.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Commissioner shall promulgate administrative regulations to carry out Sections 1 to 16 of this Act, and may establish monetary penalties for violating Sections 1 to 16 of this Act or for violating administrative regulations promulgated under Sections 1 to 16 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

- (1) *The Commissioner may:*

- (a) *Designate one (1) or more areas of this state as elimination zones where boll weevil eradication programs will be undertaken;*
 - (b) *Designate areas within the elimination zone where commercial and noncommercial cotton is prohibited from being planted;*
 - (c) *Require all commercial cotton growers within an elimination zone to participate in a boll weevil eradication program; or*
 - (d) *Destroy cotton being grown in prohibited areas of an elimination zone, and assess the grower for the costs incurred for the destruction.*
- (2) *Notice of the designation of an elimination zone shall be given by publication for one (1) day each week for three (3) successive weeks in a newspaper having general circulation in the affected area.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

- (1) *The Commissioner may treat with pesticides or destroy volunteer or other noncommercial cotton, and may establish procedures for the purchase and destruction of commercial cotton in elimination zones as designated under Section 6 of this Act.*
- (2) *Except as provided in subsection (3) of this section, no payment shall be made to the owner or lessee for the destruction or injury of any cotton which was planted in an elimination zone if the cotton was planted in violation of any provision of Sections 1 to 16 of this Act or any administrative regulations promulgated under Sections 1 to 16 of this Act.*
- (3) *If cotton that was planted in an elimination zone prior to the notification requirement in Section 6 of this Act is destroyed or injured, the Commissioner shall pay for losses incurred.*
- (4) *The Commissioner may restrict entry by persons, and may restrict the location of honeybee colonies, in any areas of an elimination zone which has been or is to be treated with pesticides.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Any person who, except in compliance with administrative regulations promulgated by the Commissioner, moves any regulated article into this state from any other state which the Commissioner has determined to be infested, shall be guilty of a Class A misdemeanor.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

No association meeting or activity undertaken to carry out Sections 1 to 16 of this Act and intended to benefit all cotton growers, handlers, or processors shall be deemed or considered illegal or in restraint of trade.

SECTION 10. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

- (1) *Any existing association which is fairly representative of the cotton growers of Kentucky may at any time after the effective date of Sections 1 to 16 of this Act make application to the State Board of Agriculture on forms provided by the board for certification and approval for the purpose of conducting a referendum among cotton growers upon the question of levying an assessment upon the cotton growers to offset, in whole or in part, the cost of boll weevil or other cotton pest suppression or eradication programs. The application forms shall include but not be limited to the following:*
 - (a) *Applicant's name and address;*
 - (b) *Date;*
 - (c) *Program to be undertaken for growers;*
 - (d) *Brief statement of how the program is to be implemented;*
 - (e) *Referendum to be conducted on a statewide or areawide basis;*
 - (f) *Proposed effective date of the program;*
 - (g) *Geographic area, by counties, of growers to be affected by the program; and*
 - (h) *Signature of the applicant.*
- (2) *The Commissioner shall publish the application through the medium of the public press in the state within ten (10) days of receipt of the application.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon being certified by the Commissioner, the association shall be fully authorized and empowered to hold and conduct on the part of the cotton growers a referendum on the question of whether or not an assessment shall be levied upon the growers to offset, in whole or in part, the cost of boll weevil or other cotton pest suppression or eradication programs.*
- (2) *Any assessment levied upon cotton growers shall be based upon the number of acres of cotton planted, and shall not exceed twenty dollars (\$20) per acre.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

- (1) *Any referendum conducted under Sections 1 to 16 of this Act may be held either on an areawide or statewide basis, as determined by the duly certified association before the referendum is called. The referendum may be participated in by all cotton growers. The Commissioner shall determine any questions of eligibility to vote. In the referendum, individuals eligible for participation shall vote upon the question of whether or not there shall be levied an assessment to offset, in whole or in part, the cost of boll weevil or other cotton pest suppression or eradication programs.*
- (2) *Passage of the referendum shall require a two-thirds (2/3) majority of those eligible cotton growers voting.*
- (3) *Upon passage of the referendum, the Commissioner shall determine the amount of the assessment, not to exceed twenty dollars (\$20) per acre, and the period of time for which it is levied.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The manner, conduct, and management of any referendum held under Sections 1 to 16 of this Act shall be under the supervision and direction of the Commissioner, and all expenses in connection with the referendum shall be borne by the association conducting the referendum.

SECTION 14. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

- (1) *With respect to any referendum conducted under Sections 1 to 16 of this Act, the Commissioner shall publicly announce through the medium of the public press at least thirty (30) days before the date determined for the referendum, the following information:*
 - (a) *The rules and regulations with respect to the holding of the referendum;*
 - (b) *The area within which the referendum will be conducted;*
 - (c) *The date, hours, and polling places for voting in the referendum;*
 - (d) *The effective date of the assessment, if adopted;*
 - (e) *The basis of the assessment proposed to be collected;*
 - (f) *The means by which the assessment shall be collected if authorized by the growers;*
 - (g) *The general purposes to which any amount shall be applied; and*
 - (h) *How the proceeds from the assessment shall be administered.*
- (2) *Direct written notice shall also be given to each county or area agricultural extension agent in any county covered by the referendum.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Commissioner shall prepare and distribute in advance of the referendum the question to be presented to the voters and shall arrange for the necessary poll holders for conducting the referendum. Within ten (10) days following the referendum, the Commissioner shall canvass and publicly declare the result of the referendum.

SECTION 16. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

- (1) *If two-thirds (2/3) of the eligible growers who vote in the referendum, vote in favor of levying and collecting the assessment proposed in the referendum, then the assessment shall be collected in the manner determined and announced by the Commissioner.*
- (2) *If the referendum fails to receive the required number of affirmative votes, the association may, with the consent of the Commissioner, call other referendums.*

- (3) *After the passage of any referendum, upon the petition of the majority of eligible voters, eligible voters may, by subsequent referendums, vote on whether to continue their assessments. All of the requirements for an initial referendum shall be met in subsequent referendums.*

Approved March 23, 2007.