

O.C.G.A. Title 2, Ch. 7, Art. 3

Current through the 2022 Regular Session of the General Assembly.

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Article 3 Use and Application of Pesticides

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2-7-90. Short title.

This article shall be cited as the “Georgia Pesticide Use and Application Act of 1976.”

History

Ga. L. 1972, p. 849, § 1; Ga. L. 1976, p. 369, § 1.

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2-7-91. Purpose of article; legislative findings.

The purpose of this article is to regulate, in the public interest, the use and application of pesticides to control pests, as defined in this article. Pesticides perform a valuable role by:

- (1) Controlling insects, fungi, nematodes, rodents, and other pests which ravage and destroy our supply of food and fiber, which serve as vectors of disease, and which otherwise constitute a nuisance in the environment or the home;
- (2) Controlling weeds which compete in the production of food and fiber and which otherwise are unwanted elements in our environment; and
- (3) Regulating plant growth to enhance both the quantity and quality of our supply of food and fiber and to facilitate its harvest.

New pesticides are continually being discovered, synthesized, or developed which are valuable for the control of pests and for use as defoliants, desiccants, plant regulators, and related purposes. However, such pesticides may be ineffective, may cause injury to man, or may cause unreasonable adverse effects on the environment if not properly used. Pesticides may injure man or animals, either by direct poisoning or by gradual accumulation of pesticide residues in the tissues. Crops or other plants may also be injured by the improper use of pesticides. The drifting or washing of pesticides into streams or lakes may cause appreciable damage to aquatic life. A pesticide applied for the purpose of killing pests in a crop which is not itself injured by the pesticide may drift and injure other crops or nontarget organisms with which it comes in contact. Therefore, it is deemed necessary to provide for regulation of the use and application of such pesticides.

History

Ga. L. 1972, p. 849, § 3; Ga. L. 1976, p. 369, § 3.

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2-7-92. Definitions.

As used in this article, the term:

- (1) “Animal” means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish.
- (2) “Beneficial insects” means those insects which, during their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.
- (3) “Board” means the Pesticide Advisory Board.
- (4) “Certified applicator” means any individual who is certified under this article to use or supervise the use of any restricted use pesticide restricted to use by certified applicators or any state restricted pesticide use restricted to use by certified applicators.
- (5) “Commercial applicator” means any individual:
 - (A) Who is not a “private applicator,” who uses or supervises the use of any restricted use pesticide restricted to use by certified applicators or any state restricted pesticide use restricted to use by certified applicators; or
 - (B) Who uses or supervises the use of any other pesticide for a pesticide contractor, as an employee or otherwise.
- (6) “Defoliant” means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
- (7) “Desiccant” means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.
- (8) “Environment” includes the water, air, and land, all plants and man and other animals living therein, and the interrelationships which exist among these.
- (9) “Environmental Protection Agency” means the United States Environmental Protection Agency.
- (10) “Equipment” means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land but shall not include any pressurized hand-sized household apparatus used to apply any pesticide or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.
- (11) “FIFRA” means the Federal Insecticide, Fungicide, and Rodenticide Act, and the amendments thereto.
- (12) “Fungi” means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as, for example, rusts, smuts, mildews, molds, yeasts, and

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bacteria, except those on or in living man or other living animals and except those in or on processed food, beverages, or pharmaceuticals.

(13) "Insect" means any of the numerous small invertebrate animals generally having a body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, and flies, and other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

(14) "Label" means the written, printed, or graphic matter on or attached to the pesticide or device or any of its containers or wrappers.

(15) "Labeling" means the label and all other written, printed, or graphic matter:

(A) Accompanying the pesticide or device at any time; or

(B) To which reference is made on the label or in literature accompanying the pesticide or device, except for current official publications of:

(i) The Environmental Protection Agency;

(ii) The United States Department of Agriculture;

(iii) The United States Department of the Interior;

(iv) The United States Department of Health and Human Services;

(v) State experiment stations;

(vi) State agricultural colleges; and

(vii) Other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(16) "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(17) "Nematode" means invertebrate animals of the phylum Nemathelminthes and class Nematoda, that is, unsegmented roundworms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; they may also be called nemas or eelworms.

(18) "Permit" means a written certificate issued by the Commissioner or his authorized agent, authorizing the purchase, possession, or use of certain pesticides or pesticide uses defined in paragraphs (26) and (27) of this Code section.

(19) "Person" means any individual, partnership, association, fiduciary, corporation, or organized group of persons, whether or not incorporated.

(20) "Pest" means:

(A) Any insect, rodent, nematode, fungus, or weed; or

(B) Any other form of terrestrial or aquatic plant or animal life or virus, bacterium, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals,

which the Environmental Protection Agency administrator declares to be a pest under Section 25(c)(1) of FIFRA or which the Commissioner declares to be a pest under subsection (f) of Code Section 2-7-97.

(21) "Pesticide" means:

(A) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests; and

(B) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(22) “Pesticide contractor” means any person who engages in the business of contracting for the application of any pesticide to the lands of another.

(23) “Plant regulator” means any substance or mixture of substances intended through physiological action for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of ornamental or crop plants or the produce thereof; the term shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(24) “Private applicator” means any individual who purchases, uses, or supervises the use of any restricted use pesticide restricted to use by certified applicators or any state restricted pesticide use restricted to use by certified applicators, for purposes of producing any agricultural or forestry commodity on property owned or rented by him or his employer or, if applied without compensation other than the trading of personal services between producers of agricultural and forestry commodities, on the property of another person.

(25) “Protect health and the environment” means to protect against any unreasonable adverse effects on the environment.

(26) “Restricted use pesticide” means any pesticide whose label bears one or more uses which have been classified as restricted by the administrator of the Environmental Protection Agency.

(27) “State restricted pesticide use” means any pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the Commissioner determines, subsequent to a hearing, to require additional restrictions for that use to protect the environment, including man, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(28) “Under the direct supervision of a certified applicator” means that, unless otherwise prescribed by its labeling or regulations of the Commissioner, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(29) “Unreasonable adverse effects on the environment” means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(30) “Weed” means any plant which grows where not wanted.

(31) “Wildlife” means all living things that are neither human, domesticated, nor, as defined in this article, pests, including, but not limited to, mammals, birds, and aquatic life.

History

Ga. L. 1972, p. 849, § 4; Ga. L. 1976, p. 369, § 4; Ga. L. 1994, p. 97, § 2.

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2-7-93. Commissioner to administer article; appointment of Pesticide Advisory Board.

This article shall be administered by the Commissioner of Agriculture of this state. In the administration of this article the Commissioner shall appoint a Pesticide Advisory Board for the purpose of advising him on all matters relating to pesticides and their use and application.

History

Ga. L. 1972, p. 849, § 2; Ga. L. 1976, p. 369, § 2.

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2-7-94. Delegation of duties.

The functions vested in the Commissioner by this article may be delegated by him to such employees or agents of the department as the Commissioner may from time to time designate for such purposes.

History

Ga. L. 1972, p. 849, § 22; Ga. L. 1976, p. 369, § 24.

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2-7-95. Publication of information; instruction.

The Commissioner may cooperate with educational institutions and other state or federal agencies in publishing information and conducting short courses of instruction in the areas of knowledge required by this article.

History

Ga. L. 1972, p. 849, § 18; Ga. L. 1976, p. 369, § 20.

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2-7-96. Cooperative agreements; grants-in-aid.

The Commissioner may cooperate, receive grants-in-aid, and enter into agreements with any agency of the federal government, of this state or its subdivisions, or of another state, to obtain assistance in the implementation of this article, in order to:

- (1) Secure uniformity of regulations;
- (2) Cooperate in the enforcement of the federal pesticide control laws through the use of personnel and facilities of the state or the federal government or both and implement cooperative enforcement programs;
- (3) Develop and administer state plans for training and for certification of certified applicators consistent with federal standards;
- (4) Contract for training with other agencies for the purpose of training certified applicators;
- (5) Prepare and submit state plans to meet federal certification standards, as provided for in Section 4 of FIFRA; and
- (6) Regulate certified applicators.

History

Ga. L. 1972, p. 849, § 23; Ga. L. 1976, p. 369, § 9.

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2-7-97. Promulgation of rules and regulations authorized; notice and hearing; restricted use pesticide classifications and state restricted pesticide uses; declaration of pests; reports to Environmental Protection Agency.

(a) The Commissioner shall administer and enforce this article. He shall have authority to issue regulations to carry out this article, after a public hearing following due notice to all interested persons, in conformance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” Such regulations may prescribe methods to be used in the application of pesticides. When the Commissioner finds that such regulations are necessary to carry out the purpose and intent of this article, such regulations may relate to the time, place, manner, methods, materials, and amounts and concentrations in connection with the application of pesticides; they may restrict or prohibit the use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the Commissioner deems necessary to prevent damage or injury by drift or misapplication to:

- (1) Plants, including forage plants, or adjacent or nearby lands;
- (2) Wildlife in the adjoining or nearby areas;
- (3) Fish and other aquatic life in waters in reasonable proximity to the area to be treated; and
- (4) Humans, animals, or beneficial insects.

(b) In issuing such regulations, the Commissioner shall give consideration to pertinent research findings and recommendations of other agencies of this state or of the federal government. The Commissioner may require, by regulation, that notice of a proposed application of a pesticide be given to land owners in designated areas if he finds that such notice is necessary to carry out the purpose of this article.

(c) For the purpose of uniformity and in order to enter into cooperative agreements, the Commissioner may adopt “restrictive use pesticide” classifications as determined by the Environmental Protection Agency. In addition to those “restricted use pesticides” classified by the administrator of the Environmental Protection Agency, the Commissioner also may determine, by regulation, after a public hearing following due notice, “state restricted pesticide uses” for the state or for designated areas within the state. If the Commissioner determines that a pesticide use, when applied in accordance with its directions for use, warnings, cautions, and for uses for which it is registered, may cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticide, the pesticide use shall be applied only by or under the direct supervision of a certified applicator or shall be subject to such other restrictions as the Commissioner may determine.

(d) Regulations adopted under this article shall not permit any pesticide use which is prohibited by FIFRA and any regulations or orders issued thereunder.

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- (e) Regulations adopted under this article as to certified applicators of “restricted use pesticides” as designated under FIFRA shall not be inconsistent with the requirements of FIFRA and any regulations promulgated thereunder.
- (f) The Commissioner, after notice and opportunity for hearing, is authorized to declare any form of plant or animal life, other than man and other than bacteria, viruses, and other microorganisms on or in living man or other living animals, which is injurious to health or the environment to be a pest.
- (g) In order to comply with Section 4 of FIFRA, the Commissioner is authorized to make such reports to the Environmental Protection Agency, in such form and containing such information, as the agency may from time to time require.

History

Ga. L. 1972, p. 849, § 5; Ga. L. 1976, p. 369, § 5; Ga. L. 1982, p. 3, § 2.

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2-7-98. Classification of certifications and licenses; standards for certification of applicators.

- (a) The Commissioner may classify or subclassify certifications or licenses to be issued under this article, as may be necessary for the effective administration and enforcement of this article. Each classification shall be subject to separate requirements, provided that no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for certified commercial pesticide applicators by the Commissioner under the authority of this Code section.
- (b) The Commissioner, in promulgating regulations under this article, shall prescribe standards for the certification of applicators of pesticides. Such standards may relate to the use and handling of pesticides or to the use and handling of the pesticide or class of pesticides covered by the individual's certification and shall be relative to the hazards involved.
- (c) In determining standards, the Commissioner shall consider:
- (1) The characteristics of the pesticide formulation, such as the acute dermal and inhalation toxicity and the persistence, mobility, and susceptibility to biological concentration;
 - (2) The use experience which may reflect an inherent misuse or an unexpected good safety record which does not always follow laboratory toxicological information;
 - (3) The relative hazards or patterns of use, such as granular soil applications, ultralow volume or dust aerial applications, or air blast sprayer applications; and
 - (4) The extent of the intended use.

Further, the Commissioner shall take into consideration the standards of the Environmental Protection Agency and is authorized to adopt such standards by regulation.

History

Ga. L. 1972, p. 849, § 6; Ga. L. 1976, p. 369, § 6.

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2-7-99. Licensing requirements; applications; issuance; fees; renewal.

(a) Pesticide contractor's license.

(1) Required; additional requirement; fee. No person shall engage in the business of contracting for the application of any pesticide to the lands of another within this state at any time without a pesticide contractor's license issued by the Commissioner for each business location. In addition to the pesticide contractor's license, each business location must maintain, in full-time employment during all periods of operation, at least one certified commercial pesticide applicator. The Commissioner shall require an annual fee of \$55.00 for each pesticide contractor's license issued. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(2) Application for license; form; content. Application for a pesticide contractor's license shall be made in writing to the Commissioner on a designated form obtained from the Commissioner's office. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations and shall include the following:

- (A)** The full name of the person applying for the license;
- (B)** If the applicant is a person other than an individual, the full name of each member of the firm or partnership or the names of the principal officers of the association, corporation, or group;
- (C)** The principal business address of the applicant in this state and elsewhere;
- (D)** If applicable, the name and address of an attorney in fact pursuant to the requirements of Chapter 5 of this title, the "Department of Agriculture Registration, License, and Permit Act";
- (E)** The model, make, horsepower, and size of any equipment used by the applicant to apply pesticides; and
- (F)** Any other necessary information prescribed by the Commissioner.

(3) Issuance. If the Commissioner finds the applicant qualified to engage in the business of contracting for the application of pesticides commercially, if the applicant files proof of financial responsibility as required under Code Section 2-7-103, and if the applicant applying for a license to contract for aerial application of pesticides has met all of the requirements of the Federal Aviation Administration and all aeronautic requirements of this state for operation of equipment described in the application, the Commissioner shall issue a pesticide contractor's license, with any necessary limitations; provided, however, commercial aerial applicators of crop protection products and pesticide contractors applying crop protection products to agricultural crops shall not be required to file proof of financial responsibility as required under Code Section 2-7-103. The license shall expire at the end of the calendar year of issue, unless it is revoked or suspended prior thereto by the Commissioner for cause.

(b) Certified pesticide applicator licenses.

(1) Certified private applicator's license.

(A) Required; competency. No individual shall purchase, use, or supervise the use of any pesticide as a private applicator unless he is licensed as a certified private applicator or is acting under the direct supervision of an individual who is licensed as a certified private applicator. The Commissioner shall require the applicant to demonstrate his competency to apply "restricted use pesticides" safely, effectively, and in such a manner as to prevent any unreasonable adverse effects on the environment. Such determination of competency shall be made on the basis of standards and procedures approved by the Environmental Protection Agency in the "Georgia Plan for Certification of Pesticide Applicators."

(B) Application for license; form; content. Application for a license shall be made in writing to the Commissioner on a designated form obtained from the Commissioner's office. Each application shall contain information regarding the applicant's qualifications and proposed operations and shall include the following:

- (i) The name of the person applying for the license;
- (ii) The complete home address and mailing address of the applicant; and
- (iii) Any other information pertinent to the applicant's operation.

(C) Issuance. If the Commissioner finds the applicant qualified to use or supervise the use of "restricted use pesticides" as a private pesticide applicator, he shall issue such license, to be effective for a specified period which shall be determined by the Commissioner by regulation. There shall be no fee required for a certified private applicator's license.

(2) Certified commercial pesticide applicator's license.

(A) Required; competency. No individual shall purchase, use, or supervise the use of any pesticide as a commercial applicator unless he is licensed as a certified commercial applicator or is acting under the direct supervision of an individual who is licensed as a certified commercial applicator. No person shall commercially apply any pesticide by aerial equipment without a certified commercial pesticide applicator license. The Commissioner shall require the applicant to demonstrate his competency to apply pesticides safely, effectively, and without any unreasonable adverse effects on the environment. Such determination of competency shall be made on the basis of standards and procedures approved by the Environmental Protection Agency in the "Georgia Plan for Certification of Pesticide Applicators."

(B) Application for license; form; content. Application for a license shall be made in writing to the Commissioner on a designated form obtained from the Commissioner's office. Each application shall contain information regarding the applicant's qualifications and proposed operations and shall include the following:

- (i) The full name of the person applying for the license;
- (ii) The principal business address of the applicant in this state and elsewhere;
- (iii) If applicable, the name and address of an attorney in fact pursuant to the requirements of Chapter 5 of this title, the "Department of Agriculture Registration, License, and Permit Act"; and
- (iv) Any other necessary information prescribed by the Commissioner.

(C) Issuance; fees; renewal. If the Commissioner finds the applicant qualified to apply pesticides in the classification or classifications he or she has applied for, the Commissioner shall issue a certified commercial pesticide applicator's license. Effective August 21, 1980, all new certified commercial pesticide applicator licenses shall be issued for a period of five years from the date of certification. The fee for the five-year license shall be \$90.00. Licenses shall be subject to renewal on the day following expiration, based on such recertification requirements as the Commissioner may establish by regulation.

History

Ga. L. 1972, p. 849, § 7; Ga. L. 1976, p. 369, § 7; Ga. L. 1980, p. 749, §§ 1, 2; Ga. L. 1982, p. 3, § 2; Ga. L. 1990, p. 1253, § 1; Ga. L. 2010, p. 9, § 1-5/HB 1055.

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2-7-100. Reciprocal examination waiver.

The Commissioner may waive all or part of the examination requirements provided for in Code Sections 2-7-98, 2-7-99, and 2-7-111 on a reciprocal basis with any other state which has substantially the same standards.

History

Ga. L. 1972, p. 849, § 14; Ga. L. 1976, p. 369, § 16.

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2-7-101. Renewals of licenses, permits, or certifications; penalty for late renewals.

- (a) If the application for renewal of any license, permit, or certification is not filed prior to the first day of the succeeding license period, a penalty of 50 percent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license, permit, or certification is issued.
- (b) Any person holding a current valid license, permit, or certification may renew such license, permit, or certification for the next year or the next license period, subject to reexamination or such other requirements as the Commissioner may impose by regulation to ensure that applicators continue to meet the needs of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.
- (c) If a license, permit, or certification is not renewed within 60 days after the beginning of a new license period, then such licensee, permittee, or certificate holder shall be required to take another examination.

History

Ga. L. 1972, p. 849, § 8; Ga. L. 1976, p. 369, § 10.

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2-7-102. Grounds for denial, suspension, revocation, or modification of license, permit, or certification.

(a) Any licensed or unlicensed person shall be subject to prosecution or civil injunctive action for committing any of the following acts, each of which is declared unlawful; and additionally, if an applicant or the holder of any license, permit, or certification is found by the Commissioner to have committed any of the following acts, or is subject to a final order imposing a civil penalty pursuant to Section 14 of FIFRA, the Commissioner may suspend any such license, permit, or certification, pending inquiry, for not longer than ten days, and, after opportunity for a hearing, may deny, suspend, or revoke such license, permit, or certification, or modify any provision thereof:

- (1) Made false or fraudulent claims through any media misrepresenting the effect of pesticides or methods to be utilized;
- (2) Made a pesticide recommendation or use inconsistent with the labeling, the Environmental Protection Agency or Georgia state registration for that pesticide, or in violation of the Environmental Protection Agency or Georgia state restrictions on the use of that pesticide;
- (3) Applied known ineffective or improper pesticides;
- (4) Operated faulty or unsafe equipment;
- (5) Operated in a faulty, careless, or negligent manner;
- (6) Neglected or, after notice, refused to comply with this article or the rules adopted hereunder;
- (7) Refused or neglected to keep and maintain the records required by this article or to make reports when and as required;
- (8) Made false or fraudulent records, invoices, or reports;
- (9) Contracted to apply any pesticide to the lands of another without a licensed commercial pesticide applicator in full-time employment;
- (10) Used fraud or misrepresentation in making an application for or renewal of a license, permit, or certification;
- (11) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, or certification;
- (12) Aided or abetted a licensed or an unlicensed person to evade the provisions of this article, conspired with such a licensed or an unlicensed person to evade the provisions of this article, or allowed one's license, permit, or certification to be used by another person;
- (13) Made false or misleading statements, during or after an inspection, concerning any infestation or infection of pests found on land;
- (14) Impersonated any federal, state, county, or city inspector or official; or

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(15) Acted in the capacity of, or advertised as, a pesticide contractor or applicator without the required license issued by the Commissioner.

(b) The Commissioner may suspend any pesticide contractor's license or any certified commercial pesticide applicator's license, pending inquiry, for not longer than ten days and, after opportunity for a hearing, may deny, suspend, or revoke such license for a period not to exceed five years upon a finding by the Commissioner that:

(1) The applicant for or holder of such a license has been convicted of or has pleaded guilty to a violation of Code Section 16-13-31;

(2) The conviction occurred or the plea was entered on or after January 1, 1984;

(3) The conviction occurred or the plea was entered within the immediately preceding five years; and

(4) An aircraft was used in the commission of such violation.

(c) The Commissioner may suspend any pesticide contractor's license or certified commercial pesticide applicator's license or refuse to grant or renew either license upon notice to the Commissioner by either a court of competent jurisdiction or the child support agency within the Department of Human Services that:

(1) The applicant for or holder of either such license is not in compliance with an order for child support as defined in Code Section 19-6-28.1 or 19-11-9.3; and

(2) The hearings and appeals procedures provided in Code Section 19-6-28.1 or 19-11-9.3, where applicable, shall be the only such procedures required under this article.

(d) The Commissioner shall not suspend any pesticide contractor's license or certified commercial pesticide applicator's license or refuse to grant or renew either license because an applicant for or holder of either such license is a borrower in default who is not in satisfactory repayment status under the Georgia Higher Education Loan Program as determined by the Georgia Higher Education Assistance Corporation or who has been certified by any entity of the federal government for nonpayment or default or breach of a repayment or service obligation under any federal educational loan, loan repayment, or service conditional scholarship program.

History

Ga. L. 1972, p. 849, § 9; Ga. L. 1976, p. 369, § 11; Ga. L. 1982, p. 3, § 2; Ga. L. 1984, p. 890, § 1; Ga. L. 1985, p. 149, § 2; Ga. L. 1996, p. 453, § 1; Ga. L. 1997, p. 143, § 2; Ga. L. 1998, p. 1094, § 1; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2019, p. 462, § 1-1/SB 214.

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2-7-103. Evidence of financial responsibility required; amount of bond, insurance, or cash deposit; notice of reduction or cancellation.

(a) Required. The Commissioner shall not issue a pesticide contractor's license until the applicant has furnished evidence of financial responsibility with the Commissioner, consisting either of a surety bond, a liability insurance policy, or a cash deposit or certification thereof, protecting persons who may suffer legal damages as a result of the operation of the applicant, provided that such surety bond, liability insurance policy, or cash deposit need not apply to damages or injury to agricultural crops, plants, or land being worked upon by the applicant.

(b) Amount; notice of reduction or cancellation by surety or insurer. The amount of surety bond, liability insurance, or cash deposit provided for in this Code section shall be set by regulation. Such surety bond, liability insurance, or cash deposit shall be maintained at not less than the minimum set by regulation at all times during the license period. The Commissioner shall be notified ten days prior to any reduction made at the request of the applicant or any cancellation of such surety bond or liability insurance by the surety or insurer. The total and aggregate liability of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy or cash deposit. The Commissioner may accept a liability insurance policy, surety bond, or cash deposit in the proper sum, which has a deductible clause in an amount not exceeding \$1,000.00 for aerial contractors and \$500.00 for all other contractors, for the total amount of liability insurance, surety bond, or cash deposit required, provided that if the applicant has not satisfied the requirement of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the Commissioner, unless such applicant furnishes the Commissioner with a surety bond, liability insurance, or cash deposit which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides. In the event that any contractor has an unpaid and outstanding judgment against him as a result of damages caused to a second party by the misuse of pesticides, he must provide a bond in an amount acceptable to the Commissioner before he can be licensed or relicensed.

(c) Personal liability for damage. Nothing in this article shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides, even though such use conforms to the rules and regulations of the Commissioner.

History

Ga. L. 1972, p. 849, § 10; Ga. L. 1974, p. 1189, §§ 1, 2; Ga. L. 1976, p. 369, § 12; Ga. L. 1980, p. 749, § 3.

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2-7-104. Records to be kept; inspection thereof.

The Commissioner shall require licensed pesticide contractors and licensed certified commercial applicators who are not employed by or otherwise acting for a licensed pesticide contractor to maintain records with respect to applications of pesticides. Such relevant information as the Commissioner may deem necessary to be recorded and maintained may be specified by regulation. Such records shall be kept for a period of time specified by the Commissioner by regulation. The Commissioner or his authorized designee shall be permitted to inspect such records during normal business hours at the place where they are maintained. Upon request in writing, the Commissioner or his authorized designee shall be furnished with a copy of such records forthwith by the licensee.

History

Ga. L. 1972, p. 849, § 12; Ga. L. 1976, p. 369, § 14.

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2-7-105. Equipment inspection; requirement of repairs or other changes.

The Commissioner may provide for inspection of any equipment used for application of pesticides. He may require repairs or other changes before its further use for pesticide application. A list of requirements which equipment must meet may be adopted by regulation.

History

Ga. L. 1972, p. 849, § 13; Ga. L. 1976, p. 369, § 15.

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2-7-106. Transportation, storage, and disposal of pesticides and pesticide containers.

No person shall transport, store, or dispose of any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects or in such a manner as to pollute any waterway in a way harmful to any wildlife therein. The Commissioner may promulgate rules and regulations governing the storing and disposal of such pesticides or pesticide containers. In determining these standards, the Commissioner shall take into consideration any regulations issued by the United States Environmental Protection Agency and any regulations issued by the Environmental Protection Division of the Department of Natural Resources of this state.

History

Ga. L. 1972, p. 849, § 16; Ga. L. 1976, p. 369, § 18.

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2-7-107. Inspections; search warrants; injunctions.

(a) For the purpose of carrying out this article, the Commissioner may enter upon any public or private premises, at reasonable times, in order to:

- (1) Have access for the purpose of inspecting any equipment subject to this article;
- (2) Inspect or sample lands actually or reported to be exposed to pesticides;
- (3) Inspect storage or disposal areas;
- (4) Inspect or investigate complaints of injury to humans or land;
- (5) Sample pesticides being applied or to be applied; or
- (6) Observe the use and application of any pesticide.

(b) Should the Commissioner be denied access to any land, where such access was sought for the purposes set forth in this article, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for such purposes. Upon such application, the court may issue a search warrant for the purposes requested.

(c) The Commissioner is charged with the duty of enforcing the requirements of this article and the rules and regulations promulgated hereunder.

(d) In addition to any other remedy provided in this article, the Commissioner is authorized to bring an action to enjoin a violation of any provision of this article or any rule or regulation promulgated hereunder. In such an action it shall not be necessary for the Commissioner to allege or prove the absence of an adequate remedy at law.

History

Ga. L. 1972, p. 849, § 21; Ga. L. 1976, p. 369, § 23; Ga. L. 1980, p. 749, §§ 4, 5.

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2-7-108. Subpoena powers.

The Commissioner may issue subpoenas to compel the attendance of witnesses and the production of books, documents, and records anywhere in this state in any hearing affecting the authority or privilege granted by a license, certification, or permit issued under this article.

History

Ga. L. 1972, p. 849, § 20; Ga. L. 1976, p. 369, § 22.

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2-7-109. Judicial review of Commissioner’s actions.

Any person aggrieved by any action of the Commissioner may obtain judicial review thereof in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

History

Ga. L. 1972, p. 849, § 17; Ga. L. 1976, p. 369, § 19.

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2-7-110. Reports of pesticide accidents; claim of damage; notification; inspection; effect of failure to file; failure to permit observation as bar to claim.

(a) The Commissioner by regulation may require the reporting of significant pesticide accidents or incidents.

(b) Any person claiming damages from a pesticide application shall file with the Commissioner, on a form prescribed by the Commissioner, a written statement claiming that he has been damaged. This report shall be filed within 60 days after the date that damages occur. If a growing crop is alleged to have been damaged, the report must be filed prior to the time that 25 percent of the crop has been harvested. Such statement shall contain, but shall not be limited to, the name of the person allegedly responsible for the application of the pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damage is alleged to have occurred, and the date on which the alleged damage occurred. The Commissioner shall prepare a form to be furnished for use in such cases. Such form shall also contain such other requirements as the Commissioner may deem proper. Upon receipt of such statement, the Commissioner shall notify the licensee and the owner or lessee of the land or other person who may be charged with responsibility for the damages claimed and shall furnish such copies of the statement as may be requested. The Commissioner shall inspect damages whenever possible. When he determines that a complaint has sufficient merit, he shall make such information available to the person claiming damages and to the person who is alleged to have caused the damage.

(c) The filing of a report as prescribed in subsection (b) of this Code section or the failure to file such a report need not be alleged in any complaint which might be filed in a court of law; nor shall the failure to file a report be considered any bar to the maintenance of any criminal or civil action.

(d) The failure to file a report as prescribed in subsection (b) of this Code section shall not be a violation of this article. However, if the person failing to file such report is the only one injured from the use or application of a pesticide by others, the Commissioner, when in the public interest, may refuse to hold a hearing for the denial, suspension, or revocation of a license or permit issued under this article until such report is filed.

(e) Where damage is alleged to have occurred, the claimant shall permit the Commissioner and the licensee and his representatives, including the bondsman and the insurer, to observe, within reasonable hours, the lands or nontarget organism alleged to have been damaged, in order that such damage may be examined. Failure of the claimant to permit such observation and examination of the damaged lands shall automatically bar the claim against the licensee.

History

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O.C.G.A. § 2-7-111

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2-7-111. Applicability of article to governmental entities; liability of such entities.

- (a)** All state agencies, municipal corporations, and other governmental agencies shall be subject to this article and rules adopted hereunder concerning the application and use of pesticides.
- (b)** Employees of agencies listed in subsection (a) of this Code section who use or supervise the use of restricted use pesticides restricted to use by certified applicators or state restricted pesticide uses restricted to use by certified applicators shall be subject to the requirements provided for in paragraph (2) of subsection (b) of Code Section 2-7-99, provided that the Commissioner shall issue a limited license without a fee to such public applicator who has qualified for such license. Such license shall be valid only when such applicator is acting as an applicator applying or supervising application of pesticides used by such entities. Government research personnel shall be exempt from this licensing requirement when applying pesticides, other than restricted use pesticides restricted to use by certified applicators or state restricted pesticide uses restricted to use by certified applicators, to experimental plots only. Individuals licensed pursuant to this subsection shall be certified commercial applicators for the use of “restricted use pesticides” covered by the applicant’s classification.
- (c)** Such governmental agencies and municipal corporations shall be subject to legal recourse by any person damaged by the application of any pesticide. Such action may be brought in the county where the damage or some part thereof occurred.

History

Ga. L. 1976, p. 369, § 8.

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2-7-112. Exemptions from article.

(a) Farmers. Code Section 2-7-99, relating to licenses and requirements for their issuance, shall not apply to any farmer applying pesticides classified for general use for himself or for his farmer neighbors, provided that:

- (1) He operates farm property and operates and maintains pesticide application equipment primarily for his own use;
- (2) He is not regularly engaged in the business of applying pesticides for hire, amounting to a principal or regular occupation, and he does not publicly hold himself out as a pesticide contractor; and
- (3) He operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his neighbors.

(b) Veterinarians. Paragraph (2) of subsection (b) of Code Section 2-7-99, relating to license and requirements for their issuance, shall not apply to a doctor of veterinary medicine applying pesticides to animals during the normal course of his veterinary practice, provided that he is not regularly engaged in the business of applying pesticides for hire, amounting to a principal or regular occupation, and does not publicly hold himself out as a pesticide contractor.

(c) Experimental research. Code Section 2-7-99, relating to licenses and requirements for their issuance, shall not apply to research personnel applying pesticides, other than restricted use pesticides restricted to use by certified applicators or state restricted pesticide uses restricted to use by certified applicators, only to bona fide experimental plots.

(d) Persons subject to Structural Pest Control Act. Persons subject to Chapter 45 of Title 43, the “Structural Pest Control Act,” are exempt from this article and the regulations issued hereunder with respect to any activities which are regulated under Chapter 45 of Title 43.

History

Ga. L. 1972, p. 849, § 15; Ga. L. 1976, p. 369, § 17.

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2-7-113. Effect of article on certain other laws.

No provision of this article shall authorize any person to violate any of the provisions of any law or any rules or regulations adopted and promulgated thereunder, the administration and enforcement of which is assigned to the Department of Natural Resources or any division therein or to the Coastal Marshlands Protection Committee. This article shall not be construed as repealing, preempting, modifying, or limiting the authority or functions assigned to the Department of Natural Resources or its divisions or officials or to the Coastal Marshlands Protection Committee.

History

Ga. L. 1976, p. 369, § 25.

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O.C.G.A. § 2-7-113.1

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2-7-113.1. Local regulation of pesticides prohibited; variances from rule or regulation of Commissioner of Agriculture.

(a) No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution relating to pesticide use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture. This provision shall in no way prohibit or impair the legal right of any county, municipal corporation, consolidated government, or other political subdivision of this state to issue business licenses or to make zoning decisions.

(b) The governing authority of any county or municipality may, by resolution, petition the Commissioner of Agriculture for a variance from a rule or regulation of the Commissioner because of special circumstances relating to the use or application of a pesticide. If such a petition is received by the Commissioner, it shall be the duty of the Commissioner to notify the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of the Agriculture and Consumer Affairs Committee and Natural Resources and the Environment Committee of the Senate and the Agriculture and Consumer Affairs Committee and the Natural Resources and Environment Committee of the House of Representatives that such petition has been received. The Commissioner shall conduct a public hearing on such petition and issue a decision on the requested variance within 60 days of the receipt of the petition. If a decision is not given within 60 days of the receipt of the petition, the variance shall automatically be granted. The Commissioner may grant a variance requested under this subsection with or without changes.

History

Code 1981, § 2-7-113.1, enacted by Ga. L. 1992, p. 3162, § 1; Ga. L. 2009, p. 303, § 2/HB 117; Ga. L. 2011, p. 752, § 2/HB 142.

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2-7-114. Penalties.

Any person violating any provision of this article or any regulation adopted hereunder shall be guilty of a misdemeanor.

History

Ga. L. 1972, p. 849, § 19; Ga. L. 1976, p. 369, § 21.

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2-7-130. Enactment; text of compact.

The Pest Control Compact is enacted into law and entered into with all other jurisdictions legally joining therein. The compact is substantially as follows:

PEST CONTROL COMPACT

ARTICLE I. FINDINGS.

The party states find that:

- (a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately 25 billion dollars from the depredations of pests is virtually certain to continue, if not to increase.
- (b) Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests but all states share the inability to protect themselves fully against those pests which present serious dangers to them.
- (c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.
- (d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an Insurance Fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

Article II. Definitions.

As used in this compact, unless the context clearly requires a different construction:

- (a) "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.
- (b) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.
- (c) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (b) of this Article.
- (d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.
- (e) "Insurance Fund" means the Pest Control Insurance Fund established pursuant to this compact.

(f) "Governing Board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) "Executive Committee" means the committee established pursuant to Article V (e) of this compact.

Article III. The Insurance Fund.

There is hereby established the Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The Insurance Fund shall contain monies appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the Insurance Fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

Article IV. The Insurance Fund, Internal Operations and Management.

(a) The Insurance Fund shall be administered by a Governing Board and Executive Committee as hereinafter provided. The actions of the Governing Board and Executive Committee pursuant to this compact shall be deemed the actions of the Insurance Fund.

(b) The members of the Governing Board shall be entitled to one vote each on such Board. No action of the Governing Board shall be binding unless taken at a meeting at which a majority of the total number of votes on the Governing Board are cast in favor thereof. Action of the Governing Board shall be only at a meeting at which a majority of the members are present.

(c) The Insurance Fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the Governing Board may provide.

(d) The Governing Board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not succeed himself. The Governing Board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the Governing Board. The Governing Board shall make provision for the bonding of such of the officers and employees of the Insurance Fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Insurance Fund and shall fix the duties and compensation of such personnel. The Governing Board in its bylaws shall provide for the personnel policies and programs of the Insurance Fund.

(f) The Insurance Fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(g) The Insurance Fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the Governing Board pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Insurance Fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender.

(h) The Governing Board shall adopt bylaws for the conduct of the business of the Insurance Fund and shall have the power to amend and rescind these bylaws. The Insurance Fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

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(i) The Insurance Fund annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. The Insurance Fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the Insurance Fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

Article V. Compact and Insurance Fund Administration.

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the compact in his state; and
2. Represent his state on the Governing Board of the Insurance Fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the Governing Board of the Insurance Fund by not to exceed three representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the Governing Board or on the Executive Committee thereof.

(c) The Governing Board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the Insurance Fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of monies from the Insurance Fund. Additional meetings of the Governing Board shall be held on call of the chairman, the Executive Committee, or a majority of the membership of the Governing Board.

(d) At such times as it may be meeting, the Governing Board shall pass upon applications for assistance from the Insurance Fund and authorize disbursements therefrom. When the Governing Board is not in session, the Executive Committee thereof shall act as agent of the Governing Board, with full authority to act for it in passing upon such applications.

(e) The Executive Committee shall be composed of the chairman of the Governing Board and four additional members of the Governing Board chosen by it so that there shall be one member representing each of four geographic groupings of party states. The Governing Board shall make such geographic groupings. If there is representation of the United States on the Governing Board, one such representative may meet with the Executive Committee. The chairman of the Governing Board shall be chairman of the Executive Committee. No action of the Executive Committee shall be binding unless taken at a meeting at which at least four members of such Committee are present and vote in favor thereof. Necessary expenses of each of the five members of the Executive Committee incurred in attending meetings of such Committee, when not held at the same time and place as a meeting of the Governing Board, shall be charges against the Insurance Fund.

Article VI. Assistance and Reimbursement.

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.
2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that

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state may request the Governing Board to authorize expenditures from the Insurance Fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use monies made available from the Insurance Fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the Insurance Fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances which occasion the request for the invoking of the compact.
2. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state.
3. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefor, in connection with the eradication, control, or prevention of introduction of the pest concerned.
4. Proof that the expenditures being made or budgeted as detailed in item 3 do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in item 3 constitutes a normal level of pest control activity.
5. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of monies from the Insurance Fund in one year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.
6. Such other information as the Governing Board may require consistent with the provisions of this compact.

(d) The Governing Board or Executive Committee shall give due notice of any meeting at which an application for assistance from the Insurance Fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by paragraph (c) of this Article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the Governing Board or Executive Committee shall authorize support of the program. The Governing Board or the Executive Committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the Governing Board or Executive Committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the Executive Committee shall upon notice in writing given within 20 days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the Governing Board. Determinations of the Executive Committee shall be reviewable only by the Governing Board at one of its regular meetings, or at a special meeting held in such manner as the Governing Board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive monies from the Insurance Fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the Insurance Fund. The Governing Board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of monies from the Insurance Fund pursuant to an application of a requesting state, the Insurance Fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(i) The Insurance Fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the Insurance Fund, cooperating federal agencies, states and any other entities concerned.

Article VII. Advisory and Technical Committees.

The Governing Board may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the Governing Board or Executive Committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the Insurance Fund being considered by such Board or Committee and the Board or Committee may receive and consider the same: provided that any participant in a meeting of the Governing Board or Executive Committee held pursuant to Article VI (d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the Governing Board or Executive Committee makes its disposition of the application.

Article VIII. Relations with Nonparty Jurisdictions.

(a) A party state may make application for assistance from the Insurance Fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the Governing Board or Executive Committee in the same manner as an application with respect to a pest within a party state, except as provided in this Article.

(b) At or in connection with any meeting of the Governing Board or Executive Committee held pursuant to Article VI (d) of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the Governing Board or Executive Committee may provide. A nonparty state shall not be entitled to review of any determination made by the Executive Committee.

(c) The Governing Board or Executive Committee shall authorize expenditures from the Insurance Fund to be made in a nonparty state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The Governing Board or Executive Committee may set any conditions which it deems appropriate with respect to the expenditure of monies from the Insurance Fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the Insurance Fund with respect to expenditures and activities outside of party states.

Article IX. Finance.

(a) The Insurance Fund shall submit to the executive head or designated officer or officers of each party state a budget for the Insurance Fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the Insurance Fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the Insurance Fund shall be maintained in two accounts to be designated respectively as the "Operating Account" and the "Claims Account." The Operating Account shall consist only of those assets necessary for the administration of the Insurance Fund during the next ensuing two-year period. The Claims Account shall contain all monies not included in the Operating Account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the Insurance Fund for a period of three years. At any time when the Claims Account has reached its maximum limit or would reach its maximum limit by the addition of monies requested for appropriation by the party states, the Governing Board shall reduce its budget requests on a pro rata basis in such manner as to keep the Claims Account within such maximum limit. Any monies in the Claims Account by virtue of conditional donations, grants or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such monies are available to meet demands arising out of claims.

(d) The Insurance Fund shall not pledge the credit of any party state. The Insurance Fund may meet any of its obligations in whole or in part with monies available to it under Article IV (g) of this compact, provided that the Governing Board takes specific action setting aside such monies prior to incurring any obligation to be met in whole or in part in such manner. Except where the Insurance Fund makes use of monies available to it under Article IV (g) hereof, the Insurance Fund shall not incur any obligation prior to the allotment of monies by the party states adequate to meet the same.

(e) The Insurance Fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Insurance Fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Insurance Fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the Insurance Fund.

(f) The accounts of the Insurance Fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the Insurance Fund.

Article X. Entry Into Force and Withdrawal.

(a) This compact shall enter into force when enacted into law by any five or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article XI. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History

Code 1981, § 2-7-130, enacted by Ga. L. 1984, p. 1021, § 1; Ga. L. 1985, p. 149, § 2.

End of Document

O.C.G.A. § 2-7-131

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 4 Pest Control Compact (§§ 2-7-130 — 2-7-136)

2-7-131. Cooperation with insurance fund.

Consistent with the law of this state and within the limits of funds appropriated or otherwise available, the departments, agencies, and officers of this state may cooperate with the insurance fund established by the Pest Control Compact.

History

Code 1981, § 2-7-131, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-132. Filing of compact bylaws and amendments.

Pursuant to Article IV (h) of the Pest Control Compact, copies of bylaws and amendments thereto shall be filed with the Commissioner of Agriculture.

History

Code 1981, § 2-7-132, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-133. Compact administrator.

The compact administrator for the Pest Control Compact for this state shall be the Commissioner of Agriculture.

History

Code 1981, § 2-7-133, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-134. Request or application for assistance from insurance fund.

Within the meaning of Article VI (b) or VIII (a) of the Pest Control Compact, a request or application for assistance from the insurance fund may be made by the Governor.

History

Code 1981, § 2-7-134, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-135. Appropriation of funds; receipt and expenditure of payments.

(a) The funds necessary to carry out this article and the Pest Control Compact shall be paid from funds appropriated to or otherwise made available to the Department of Agriculture.

(b) When any payment is made to this state pursuant to the Pest Control Compact for purposes of allowing this state to undertake or intensify a control or eradication program, such payment shall be received by the department, agency, or officer expending funds or becoming liable to expend funds for such control or eradication program. Such payment shall be expended for purposes of such control or eradication program by such department, agency, or officer; and such payment need not be paid into the general fund of the state treasury.

History

Code 1981, § 2-7-135, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-136. “Executive head” defined.

As used in the Pest Control Compact, with reference to this state, the term “executive head” shall mean the Governor.

History

Code 1981, § 2-7-136, enacted by Ga. L. 1984, p. 1021, § 1.

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O.C.G.A. Title 2, Ch. 7, Art. 5

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 5 Boll Weevil Eradication (§§ 2-7-150 — 2-7-158)

Article 5 Boll Weevil Eradication

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O.C.G.A. § 2-7-150

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 5 Boll Weevil Eradication (§§ 2-7-150 — 2-7-158)

2-7-150. Short title.

This article shall be cited as the “Georgia Boll Weevil Eradication Act of 1985.”

History

Code 1981, § 2-7-150, enacted by Ga. L. 1985, p. 1079, § 1.

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O.C.G.A. § 2-7-151

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 5 Boll Weevil Eradication (§§ 2-7-150 — 2-7-158)

2-7-151. Declaration of purpose.

The boll weevil, *Anthonomus grandis* Boheman, is declared to be a serious pest and a menace to the cotton-growing industry. The purpose of this article is to provide for the eradication of this pest.

History

Code 1981, § 2-7-151, enacted by Ga. L. 1985, p. 1079, § 1.

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O.C.G.A. § 2-7-152

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 5 Boll Weevil Eradication (§§ 2-7-150 — 2-7-158)

2-7-152. Definitions.

As used in this article, the term:

- (1) “Bale” means a running bale of cotton averaging 500 pounds.
- (1.1) “Boll weevil” means *Anthonomus grandis* Boheman in any stage of development.
- (2) “Certificate” means a document issued by the Commissioner certifying that a regulated article is free of the boll weevil.
- (3) “Commissioner” means the Commissioner of Agriculture, any employee of the Department of Agriculture, or any other person authorized by the Commissioner to act in his or her behalf.
- (4) “Department” means the Georgia Department of Agriculture.
- (4.1) “First handler” means that person who owns or operates the gin where cotton is first delivered from the cotton grower.
- (5) “Host” means any plant, plant part, or product thereof, including cotton, which is capable of sustaining the boll weevil in the completion of any portion of its life cycle.
- (6) “Infested” means actually infested with the boll weevil or exposed to such an extent that it would be reasonable to expect that an infestation exists.
- (7) “Noncommercial cotton” means cotton intended for purposes other than processing.
- (8) “Permit” means a document issued or authorized by the Commissioner providing for the movement of regulated articles to restricted destinations for limited handling, use, or processing.
- (9) “Person” means an individual, corporation, company, society, association, or other business entity.
- (10) “Regulated article” means any article carrying or capable of carrying the boll weevil, including, but not limited to, cotton plants, seed cotton, hosts, gin trash, and equipment which may be designated by the Commissioner.

History

Code 1981, § 2-7-152, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1998, p. 1123, § 1; Ga. L. 2009, p. 439, § 1/SB 43.

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2-7-153. Administration and enforcement by Commissioner.

The Commissioner is authorized to administer and enforce the provisions of this article through the utilization of personnel and facilities of the department.

History

Code 1981, § 2-7-153, enacted by Ga. L. 1985, p. 1079, § 1.

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2-7-154. Powers of Commissioner.

The Commissioner is authorized to:

- (1) Cooperate with and, as he may deem necessary, enter into written agreements with any other agency of this state, any agency of the federal government, any agency of another state, any person who may be engaged in the growing, processing, marketing, or handling of cotton, or any other person for the purpose of cost sharing or assignment of duties and responsibilities in destroying and eradicating the boll weevil in Georgia;
- (2) Inspect or cause to be inspected by duly authorized employees or agents any land, plants, plant products, or other articles, things, or substances that may, in his opinion, be capable of disseminating or carrying the boll weevil. For this purpose, the Commissioner or his employees and agents shall have the power to enter into or upon any place and to open any bundle, package, or other container containing or thought to contain any regulated article or other item capable of disseminating or carrying the boll weevil;
- (3) Require every person growing cotton in this state to furnish, on forms supplied by the Commissioner, such information as he may require relating to the size and location of all commercial and noncommercial cotton fields or patches being grown in this state;
- (4) Quarantine this state or any portion thereof or any other state or portion thereof when, after hearing, he determines that such action is necessary to prevent or reduce the spread of the boll weevil;
- (5) Adopt, after hearing, such rules as he deems necessary to prevent or reduce the spread of the boll weevil, including but not limited to rules:
 - (A) Governing the movement of regulated articles into, out of, or within this state;
 - (B) Establishing eradication zones within the state where eradication efforts will be undertaken;
 - (C) Restricting or prohibiting the planting of cotton in eradication zones when he determines that it would jeopardize the success of the eradication effort or present a hazard to the public health or safety;
 - (D) Requiring that all growers of commercial cotton in the designated eradication zones participate in the eradication program, including cost sharing through assessment;
 - (E) Establishing penalty fees for those growers in eradication zones who fail to comply with the rules adopted by the Commissioner; or
 - (F) Imposing restrictions on pasturing of livestock, entry by humans, and location of honeybee colonies in any eradication zone which has been or is to be treated with pesticides for eradication of the boll weevil or in any other area affected by such treatments;
- (6) Enter upon any premise, property, or field within an eradication zone and treat with pesticides or destroy any volunteer or noncommercial cotton when he determines that such action is necessary to the success of the eradication efforts;

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- (7)** Require the destruction of commercial cotton in an eradication zone when it is not being grown in compliance with the rules adopted under this article; and
- (8)** Exempt from the assessment penalty requirements set forth in this article those cotton growers for whom paying the assessment penalties would impose an undue financial hardship. The Commissioner is authorized to establish, upon the recommendation of the cotton growers' organization certified pursuant to Code Section 2-7-155, a payment plan in such hardship cases. This exemption shall be implemented as follows:
- (A)** The Commissioner shall adopt rules and regulations defining the criteria to be used in determining financial hardship; provided, however, that no exemption shall be granted to any cotton grower who, after the amount of assessments and penalties otherwise due has been subtracted from his taxable net income, as defined in Code Section 48-7-27, has a net income exceeding \$15,000.00 for the year in which he seeks an exemption;
- (B)** Any cotton grower who claims an exemption shall apply on a form prescribed by the Commissioner. A separate application shall be filed for each calendar year in which a cotton grower claims an exemption. Each application shall contain an explanation of the conditions to be met for approval. An oath shall be included on the form and the form, upon completion, shall be returned to the Commissioner;
- (C)** The Commissioner shall forward all completed exemption application forms to the cotton growers' organization certified pursuant to Code Section 2-7-155. The certified growers' organization shall determine from the information contained in the application forms whether or not the applicants qualify for a hardship exemption and may recommend a payment plan to the Commissioner; and
- (D)** The certified cotton growers' organization shall notify the Commissioner of its determination, which shall be binding upon the applicants. Upon receipt of the determination of the certified cotton growers' organization, the Commissioner shall promptly notify each affected cotton grower of that determination. If an exemption has been denied, assessments and penalties for the year in which the application was made will become due at the time they would otherwise have become due had no application for exemption been filed or within 30 days after the date of the Commissioner's notice of an adverse determination, whichever is later.

History

Code 1981, § 2-7-154, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1991, p. 452, § 1.

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2-7-155. Certification of cotton growers' organization by Commissioner; effect of certification; powers of organization; liability.

(a) The Commissioner is authorized to certify a cotton growers' organization for the purpose of entering into agreements with the department, agencies of other states, the federal government, or any other person as may be necessary to carry out the purposes of this article. In applying to the Commissioner for certification, the cotton growers' organization shall demonstrate that:

- (1) It is a nonprofit organization within the meaning of Section 501(a) of the Internal Revenue Code (26 U.S.C. Section 501(a));
- (2) Membership is open to all cotton growers in this state;
- (3) It has only one class of members and each member has only one vote;
- (4) Its board of directors consists of six cotton growers elected by the membership and one employee of the department;
- (5) All books and records of account and minutes of proceedings of the organization are available for inspection or audit by the Commissioner upon request at any reasonable time; and
- (6) Any employee or agent of the organization who handles its funds is adequately bonded.

(b) If the Commissioner finds that the growers' organization meets the requirements set forth in subsection (a) of this Code section, he shall certify the organization, in writing, for the purposes of this article only, and such certification shall not affect any other organization of cotton growers established for other purposes. The Commissioner is authorized to revoke such certification if at any time the organization fails to meet the certification requirements or the purposes of this article.

(c)

- (1) The certified cotton growers' organization:
 - (A) Shall be a public corporation and may contract and be contracted with, implead and be impleaded, and complain and defend in all courts; and
 - (B) Shall be governed by a board of directors which shall name its chairman, vice chairman, and secretary and determine a quorum for the transaction of its business.
- (2) The certified cotton growers' organization is authorized to appoint advisory boards, special committees, legal counsel, and technical and clerical personnel to advise, aid, and assist the organization in the performance of its duties and to fix, if necessary, any compensation for such services.
- (3) The members, officers, and employees of the cotton growers' organization operating under this article shall not be held individually responsible in any way whatsoever to any grower or other person for errors in judgment, mistakes, or other acts of omission or commission, other than their own individual acts of dishonesty or crime. No member, officer, or employee shall be held individually responsible for any act or omission of any other member of such organization. The liability of the

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members of the growers' organization shall be several and not joint, and no member shall be liable for the default of any other member.

(4) The certified cotton growers' organization is authorized to borrow money or otherwise incur indebtedness and to expend the moneys so acquired for the purpose of destroying and eradicating the boll weevil in Georgia. Any indebtedness created pursuant to this paragraph shall be repaid from the assessments on cotton growers provided for in Code Section 2-7-156 or from other funds available to the certified cotton growers' organization and shall not constitute a debt of the State of Georgia or any department, agency, political subdivision, official, or employee thereof. Funds borrowed under this paragraph may be expended by the certified cotton growers' organization for the purpose of reducing the annual assessment or increasing the number of years over which cotton growers are required to pay assessments under this article.

History

Code 1981, § 2-7-155, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1986, p. 1086, § 1; Ga. L. 1987, p. 191, § 9.

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2-7-156. Assessment for suppression and eradication programs; conditions.

An assessment shall be levied upon all cotton growers in this state to cover, in whole or in part, the cost of boll weevil suppression and eradication programs authorized by this article, subject to the following:

- (1) All assessments imposed on cotton shall be levied on a per acre or per bale basis as determined by the Commissioner upon recommendation of the cotton growers' organization; provided, however, that the per acre assessment shall continue to be used so long as acreage certification is available to the department;
- (2) The per acre or per bale assessment, the period for which it shall be levied, and the geographical area to which the assessment applies shall be established by the Commissioner, upon recommendation by the board of directors of the cotton growers' organization;
- (3) When the assessment is imposed on a per bale basis, it shall be the duty of each first handler of cotton from cotton growers in this state to collect the assessments imposed pursuant to this article on such cotton, to file reports on forms prescribed by the Commissioner listing such sales and the name of the grower, and to remit the amounts so imposed and collected to the Commissioner within 30 days of the date of purchase of the cotton;
- (4) The Commissioner of Agriculture is authorized, and it shall be the Commissioner's duty, to receive, collect, hold in trust, and disburse all assessments and any other funds created under this article as trust funds of the cotton growers' organization, without complying with the requirements applicable to funds collected for the use and benefit of the state. Such funds shall not be required to be deposited in the state treasury and appropriated therefrom. All moneys collected by the Commissioner shall be deposited in a bank or other depository approved by the growers' organization and shall be disbursed by the Commissioner only upon the written authorization of the certified cotton growers' organization for the administration and implementation of the boll weevil eradication program. Should the eradication program be discontinued or certification of the growers' organization be revoked by the Commissioner, the assessments authorized by this article shall be discontinued on the date specified by the Commissioner and any funds remaining in its hands at such time are authorized to be paid out by the Commissioner for existing obligations and for winding up the affairs of the certified cotton growers' organization. Any funds remaining over and above those required for completing the business of the cotton growers' organization shall be paid by the Commissioner to the contributing growers on a pro rata basis;
- (5) Records maintained by the Commissioner on behalf of the certified cotton growers' organization shall be audited at least annually by the state auditor;
- (6) The Commissioner shall have a lien for the payment of assessments under this article which shall be of equal dignity with liens for taxes in favor of the state. The Commissioner is authorized to issue executions for the collection of such assessments in like manner as executions are issued for ad valorem property taxes due the state. It shall be the duty of each and every sheriff of this state and their lawful deputies, upon request of the Commissioner, to levy and collect such executions and to make their return thereof to the Commissioner in like manner as such tax executions are levied and return

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thereof made to county tax collectors and tax commissioners; provided, however, that the Commissioner shall be authorized to levy and collect his or her own executions;

(7) In addition to the lien provided in paragraph (6) of this Code section, the Commissioner shall have a special lien on cotton for payment of assessments which shall be superior to any other lien provided by law, shall arise as of the time the assessments become due and payable, and shall cover all cotton grown by or ginned from the cotton grower from the date the lien arises until such assessments are paid; provided, however, that any buyers of cotton shall take free of such lien if such buyer has not received written notice of the lien from the Commissioner. Such lien extends to the proceeds of sale received by the person who originally bought the cotton from the grower. Notice may be provided by tagging the cotton as being subject to a delinquency or by documentation in the sales agreement indicating that the cotton is subject to a delinquency. The Commissioner or the Commissioner's authorized representative is authorized and empowered to so tag the cotton wherever found. In order to enforce such liens, the Commissioner is authorized to issue an execution for the collection of delinquent assessments due the Commissioner. The execution shall be directed to all and singular sheriffs of this state and shall command them to levy upon the cotton of the cotton grower or notified initial buyer; provided, however, that the Commissioner shall be authorized to levy and collect his or her own executions. Each sheriff or the Commissioner or the Commissioner's authorized representative shall execute the execution as in cases of writs of execution from the superior courts. The Commissioner or the Commissioner's authorized representative may levy and conduct judicial sales in the manner provided by law for sales by sheriffs and constables. The special lien on cotton may also be enforced by a foreclosure action or action at law, as appropriate, brought by the Commissioner in the superior court of the county of residence of the person who originally bought the cotton from the grower. A buyer of cotton other than a person buying cotton from the grower takes free of the lien created by this paragraph.

History

Code 1981, § 2-7-156, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1986, p. 1086, § 2; Ga. L. 1990, p. 5, § 1; Ga. L. 1991, p. 452, § 2; Ga. L. 1998, p. 1123, § 2; Ga. L. 2009, p. 439, § 2/SB 43.

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2-7-156.1. [Repealed] Assessment Advisory Committee created; composition; eligibility of members; duties.

History

Code 1981, § 2-7-156.1, enacted by Ga. L. 1998, p. 1123, § 3; repealed by Ga. L. 1998, p. 1123, § 3, effective March 24, 2010.

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2-7-157. Prohibited activities.

It shall be unlawful:

- (1) To plant cotton in any eradication zone in which planting has been prohibited by the Commissioner;
- (2) To alter, forge, counterfeit, or engage in the unauthorized use of any certificate, permit, or other document provided for in this article; or
- (3) To store or handle any regulated article in the eradication zone or to move a regulated article into, through, or from the eradication zone in violation of the purposes of this article.

History

Code 1981, § 2-7-157, enacted by Ga. L. 1985, p. 1079, § 1.

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2-7-158. Penalties.

(a) Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50.00 nor more than \$1,000.00 or by imprisonment not exceeding 12 months, or both, as determined by the court.

(b) Any cotton grower or the first handler of cotton from a cotton grower who fails to pay any assessment levied under this article when due and upon reasonable notice shall be subject to a penalty of not more than \$25.00 per acre or \$12.50 per bale, such amount to be established by the Commissioner upon recommendation of the board of directors of the cotton growers' organization.

(c) Any cotton grower who fails to pay all assessments, including penalties, within 30 days from the date of notice shall be required to destroy all cotton plants growing on his or her property which are subject to assessment. Any plants not destroyed shall be deemed to be a public nuisance. In such case, the Commissioner is authorized to apply to any court of competent jurisdiction and such court shall issue judgment and order condemnation and destruction of such nuisance. The grower shall be liable for all court costs, fees, and other expenses incurred in such action.

History

Code 1981, § 2-7-158, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1991, p. 452, § 3; Ga. L. 1998, p. 1123, § 4; Ga. L. 2009, p. 439, § 3/SB 43.

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O.C.G.A. Title 2, Ch. 7, Art. 6

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 6 Liability for Use of Fertilizers, Plant Growth Regulators, or Pesticides (§ 2-7-170)

Article 6 Liability for Use of Fertilizers, Plant Growth Regulators, or Pesticides

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O.C.G.A. § 2-7-170

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 6 Liability for Use of Fertilizers, Plant Growth Regulators, or Pesticides (§ 2-7-170)

2-7-170. Liability resulting from use or application of fertilizer, plant growth regulator, or pesticide; previous orders issued by Department of Agriculture and Department of Natural Resources; strict tort liability against product manufacturers.

(a) No person, firm, or corporation engaged in an agricultural, silvicultural, farming, horticultural, or similar operation, place, establishment, or facility, or any of its appurtenances, who has applied or used or arranged for the application or use of any fertilizer, plant growth regulator, or pesticide as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 135, et seq., as amended by the Federal Environmental Pesticide Control Act of 1972, 7 U.S.C. 136, et seq., and Article 2 of this chapter, known as the “Georgia Pesticide Control Act of 1976,” and Article 3 of this chapter, known as the “Georgia Pesticide Use and Application Act of 1976,” shall be responsible or liable under this title, without proof of negligence or lack of due care, for any damages, response costs, or injunctive relief relating to any direct or indirect discharge or release into, or actual or threatened pollution of, the land, waters, air, or other resources of the state that is or may be associated with or resulting from such application or use, provided that:

- (1) Such application or use was in a manner consistent with the labeling of such fertilizer, plant growth regulator, or pesticide and in accordance with acceptable agricultural management practices and all applicable state and federal laws and regulations at the time of such application or use;
- (2) The state or federal government, or any of its agencies, had approved, recommended, or permitted the application or use and there is no finding that any conditions of such approval, recommendation, or permit were violated or that warnings or limitations regarding the application or use were ignored; and
- (3) Such fertilizer, plant growth regulator, or pesticide was licensed by or registered with the state or federal government at the time of such application or use and such person, firm, or corporation knew of no special geological, hydrological, or soil type condition existing on the land which rendered such application or use likely to cause pollution. No person, firm, or corporation shall be liable based solely on ownership of the land where such application or use took place.

(b) Nothing in this article shall affect or limit any right of action of an individual against any person, firm, or corporation engaged in an agricultural or farming operation for injury to person or property resulting from such chemical application or use.

(c) All orders issued by the Department of Agriculture and the Department of Natural Resources prior to July 1, 1988, pursuant to this title and Title 12, and the liability upon which such orders are premised, if any, shall remain in effect unless the orders are otherwise revoked, amended, or modified by the Commissioner of Agriculture or the commissioner of natural resources.

(d) Nothing in this article shall be construed to prohibit any cause of action based on strict tort liability against any manufacturer of such fertilizer, plant growth regulator, or pesticide.

History
