

RÉSUMÉ DIGEST

ACT 327 (SB 256)

2017 Regular Session

Thompson

New law provides for the following definitions:

- (1) "Commissioner" means the La. commissioner of agriculture and forestry.
- (2) "Covered produce farm" means any farm engaged in the growing, harvesting, packing, or holding of produce for human consumption which is subject to the requirements of the FDA Food Safety Modernization Act. Specifies that this does not include farms that have \$25,000 or less of gross income from sales of produce in a year.
- (3) "Department" means the La. Dept. of Agriculture and Forestry.
- (4) "Produce" means any food that is defined as such within the meaning of the FDA Food Safety Modernization Act and is a raw agricultural commodity, including raw agricultural commodities that are grown domestically or imported or offered for sale in Louisiana.

New law designates the department as the state agency responsible for cooperating with the secretary of the U.S. Department of Health and Human Services regarding provisions of the FDA Food Safety Modernization Act that fall within the department's authority granted by new law.

New law authorizes the commissioner to receive and expend state and federal funds appropriated for the administration of new law.

New law requires the department to work with the secretary of the U.S. Department of Health and Human Services to develop a program to ensure the safety of agricultural produce in Louisiana.

New law authorizes the commissioner to accept advisory assistance from the secretary of the U.S. Department of Health and Human Services in administering the program authorized by new law.

New law requires the commissioner to represent the state in all communications and negotiations with the secretary of the U.S. Department of Health and Human Services regarding the implementation of new law and the provisions of the FDA Food Safety Modernization Act that fall within the department's authority granted by new law.

New law authorizes the commissioner to adopt rules in accordance with the Administrative Procedure Act (APA) and further authorizes the commissioner to do the following:

- (1) Enforce standards for growing, harvesting, packing, and holding of produce for human consumption and administer the provisions of new law.
- (2) Enter the premises of any covered produce farm during reasonable hours to inspect the growing, harvesting, packing, and holding of produce.
- (3) Investigate the organization, business, conduct, practices, and management of any covered produce farm engaged in intrastate commerce.
- (4) Inspect or copy any covered produce farm record related to the growing, harvesting, packing, or holding of produce.
- (5) Issue stop orders prohibiting the growing, harvesting, packing, or holding of produce.

New law provides that a person shall not impede, obstruct, hinder, or otherwise prevent or attempt to prevent the department, an inspector of the department, or any employee of the department in the performance of his duties.

New law provides that nothing in new law shall limit the commissioner's authority to respond to an emergency in order to prevent a public health hazard.

New law requires any person, firm, or corporation owning or operating a covered produce farm in Louisiana to do the following:

- (1) Register with the department on an annual basis no later than July first of each year.
- (2) Update their registration with the department within 90 days of any changes in activity on the covered produce farm.
- (3) Maintain all records required by the rules adopted pursuant to new law and make those records available to the department upon request.
- (4) File with the commissioner annual or special reports and answers in writing.

New law subjects any person, firm, or corporation convicted of any of the following offenses to a fine of not more than \$500:

- (1) To willfully make, or cause to be made, any false entry or statement of fact.
- (2) To willfully make, or cause to be made, any false entry in any account, record, or memorandum required pursuant to new law.
- (3) To willfully neglect or fail to make full, true, and factual entries in any accounts, records, or memoranda required pursuant to new law.
- (4) To willfully remove out of the state's jurisdiction, or mutilate, alter, or by any other means falsify any documentary evidence required pursuant to new law.
- (5) To willfully refuse to submit to the commissioner or to his authorized agents, for the purpose of inspection and making copies, any documentary evidence required pursuant to new law.

New law prohibits the department from imposing a fine pursuant to the provisions of new law if the federal government has imposed a fine for the same violation pursuant to provisions of the FDA Food Safety Modernization Act.

New law authorizes the commissioner to impose a civil penalty of not more than \$100 for violations of new law.

New law provides that penalties may only be assessed by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the APA.

New law provides that no provision of new law shall be construed as eliminating or diminishing the authority of the LDH to regulate food as provided in prior law.

New law designates LDH as the state agency responsible for cooperating with the secretary of the U.S. Department of Health and Human Services regarding provisions of the FDA Food Safety Modernization Act that fall within its authority granted in prior law.

New law shall remain in effect only as long as the federal funds required to implement the provisions of the FDA Food Safety Modernization Act are provided.

New law shall be null and void upon the date of repeal of 21 C.F.R. Part 112.

Effective upon signature of the governor (June 22, 2017).

(Adds R.S. 3:921-928)