

2018 Regular Session

HOUSE BILL NO. 561

BY REPRESENTATIVE EMERSON

HORTICULTURE: Repeals relative to retail florists and wholesale florists

1 AN ACT

2 To amend and reenact R.S. 3:3801(A)(introductory paragraph) and (5) and (C)(2), 3805,  
3 3806(E) through (H), and 3808(I) through (P), to enact R.S. 3:3804(B)(3), 3806(I),  
4 and 3808(Q), and to repeal R.S. 3:3801(A)(6) and (C)(3), 3804(A)(2) and (3),  
5 3807(B)(2) and (3), and 3808(B) and (C), relative to retail and wholesale florists; to  
6 remove from the Horticultural Commission the members representing retail florists  
7 and wholesale florists; to remove the regulation, examination, and licensing of retail  
8 and wholesale florists; to establish the occupation of and requirements for floral  
9 dealers; to provide for rules and regulations of the Department of Agriculture and  
10 Forestry; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 3:3801(A)(introductory paragraph) and (5) and (C)(2), 3805, 3806(E)  
13 through (H), and 3808(I) through (P) are hereby amended and reenacted and R.S.  
14 3:3804(B)(3), 3806(I), and 3808(Q) are hereby enacted to read as follows:

15 §3801. Horticulture Commission

16 A. The Horticulture Commission of Louisiana is hereby created within the  
17 Department of Agriculture and Forestry to be comprised of the following ~~thirteen~~  
18 members:

19 \* \* \*

20 (5) A ~~licensed retail florist~~; floral dealer.

21 \* \* \*

1 C. The following members shall be appointed by the commissioner, subject  
2 to confirmation of the Senate, and shall serve terms of four calendar years beginning  
3 with the year of appointment in accordance with the following provisions:

4 \* \* \*

5 (2) The ~~licensed retail florist~~ floral dealer shall be appointed during the  
6 second year of each administration from a list of three persons nominated by the  
7 Louisiana State Florists Association, Inc.

8 \* \* \*

9 §3804. Regulation of professions and occupations

10 \* \* \*

11 B. The commission shall regulate the following occupations:

12 \* \* \*

13 (3) Floral dealer.

14 \* \* \*

15 §3805. Applications

16 Each application to take an examination and each application for a license or  
17 permit shall be in writing and shall be on forms which shall be prescribed by the  
18 commission. Each application shall be accompanied by the appropriate fee and by  
19 such documents as the commission may require. Each applicant shall indicate on the  
20 application the street address of his residence and the street address of his place of  
21 business. If the residence or place of business does not have a street address, the  
22 applicant shall provide sufficient information to establish the physical location of the  
23 residence or place of business. Each applicant for a nursery stock ~~dealer's permit~~  
24 dealer, or a cut flower dealer's dealer, or floral dealer permit shall have an identifying  
25 sales tax number issued by the secretary of revenue and taxation and shall indicate  
26 that number on the application.

27 \* \* \*

28 §3806. Fees

29 \* \* \*

1           E. The permit fee for each floral dealer's permit which is issued or renewed  
2           by the commissioner shall not be less than seventy dollars nor more than one  
3           hundred dollars per permit.

4           ~~E.F.~~ In addition to the fees provided for in Subsections B, C, ~~and D,~~ and E  
5           of this Section, each applicant who applies for the renewal of a license or permit  
6           more than fifteen working days after his license or permit has expired shall pay a late  
7           fee of twenty-five dollars for each late application.

8           ~~F.G.~~ The fees established in this Section shall not be refundable except under  
9           such conditions as the commission may establish.

10           ~~G.H.~~ (1) All assessments, fees, penalties, and all other funds received under  
11           the provisions of this Chapter, subject to the exceptions contained in Article VII,  
12           Section 9 of the Constitution of Louisiana, shall be deposited immediately upon  
13           receipt into the state treasury and shall be credited to the Bond Security and  
14           Redemption Fund.

15           (2) Out of the funds remaining in the Bond Security and Redemption Fund  
16           after a sufficient amount is allocated from that fund to pay all obligations secured by  
17           the full faith and credit of the state which become due and payable within any fiscal  
18           year, the treasurer, prior to placing the remaining funds in the state general fund,  
19           shall pay an amount equal to the total amount of funds paid into the state treasury  
20           under the provisions of this Chapter into a special fund which is hereby created in  
21           the state treasury and designated as the Horticulture and Quarantine Fund.

22           (3) All unexpended and unencumbered monies in the fund at the end of the  
23           fiscal year shall remain in the fund. The state treasurer shall invest monies in the  
24           fund in the same manner as monies in the state general fund. All interest earned on  
25           monies from the fund invested by the state treasurer shall be deposited in the fund.

26           (4) Subject to appropriation, the monies in the fund shall be used for the  
27           following purposes:

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

4 (b) To fund any and all costs related to the purposes of this Chapter and to  
5 carrying out the powers and duties granted the commission and the commissioner  
6 under this Chapter.

7 H.I. The commission is authorized to promulgate rules and regulations, in  
8 accordance with the Administrative Procedure Act, necessary to implement the  
9 provisions of this Section.

10 \* \* \*

11 §3808. Terms and conditions of licenses and permits

12 \* \* \*

13 I. A cut flower dealer's permit authorizes the holder to ~~do any of the~~  
14 ~~following:~~

15 ~~(1) Sell~~ sell cut flowers either singly or in bunches, or both. However, the  
16 holder of a cut flower permit may not sell cut flowers within three hundred feet of  
17 the place of business of another person engaged in the ~~profession of retail florist.~~  
18 occupation of floral dealer.

19 ~~(2) Operate under that permit a vending machine for the sale of cut flowers~~  
20 ~~and floral design in accordance with the provisions of this Chapter and the rules and~~  
21 ~~regulations adopted pursuant to this Chapter, if the holder is engaged in the~~  
22 ~~profession of retail florist.~~

23 J. A floral dealer's permit authorizes the holder to sell cut flowers and  
24 ornamental plants in pots. Each person engaged in the occupation of floral dealer  
25 may operate a vending machine at a location remote from the individual's place of  
26 business for the sale of cut flowers, subject to all of the following requirements:

27 (1) No permittee shall operate more than five vending machines at any time.

28 (2) The permittee shall obtain a floral dealer's permit for each vending  
29 machine.

1           (3) The cut flowers sold from the vending machine shall be inspected at the  
2           owner's place of business prior to placement in the vending machine.

3           (4) The vending machine shall be monitored in person or electronically by  
4           an employee of the business at least once each business day and serviced as needed.

5           (5) The permittee shall not operate vending machines outside the parish more  
6           than twenty-five miles beyond his place of business.

7           ~~J.K.~~ Each person issued a permit ~~under~~ pursuant to the provisions of this  
8 Chapter shall meet the occupational standards determined by the commission for  
9 each occupation and shall notify the commission of each change in the address of the  
10 permit holder.

11           ~~K.L.~~ Each person who holds a valid Louisiana Nursery Certificate Permit  
12 may use that permit in lieu of a nursery stock dealer's permit, or a cut flower dealer's  
13 permit, or both, at any one outlet.

14           ~~L.M.~~ Each nursery stock dealer and cut flower dealer shall secure an  
15 appropriate permit for each outlet operated by the dealer.

16           ~~M.N.~~ Each license and permit issued ~~under~~ pursuant to the provisions of this  
17 Chapter shall expire on January thirty-first of each year and may be renewed in  
18 accordance with rules adopted by the commission.

19           ~~N.O.~~ Each holder of a license or permit issued ~~under~~ pursuant to the  
20 provisions of this Chapter shall present such license or permit upon demand of any  
21 authorized agent of the horticulture commission.

22           ~~O.P.~~ Utility arborists shall be subject to the following provisions:

23           (1) A utility arborist's license authorizes the holder thereof to recommend or  
24 execute the removal of trees or portions of trees along utility rights of way.

25           (2) For license renewal, each utility arborist is required to attend a continuing  
26 training seminar as determined by rule by the commission.

27           ~~P.Q.~~ Landscape irrigation contractors shall be subject to the following  
28 provisions:

1 (1) Notwithstanding any other law to the contrary, a landscape irrigation  
2 contractor's license authorizes the holder to construct, install, connect, repair,  
3 maintain, improve, or alter any portion of a landscape irrigation system, including  
4 the required wiring within that system, and to install and connect the landscape  
5 irrigation system to the required power supply and to a public or private water supply  
6 system.

7 (2) For license renewal, each landscape irrigation contractor shall obtain  
8 continuing training as determined by rule of the commission.

9 (3) He shall request and be issued any necessary permits from any governing  
10 authority.

11 (4) Prior to connecting to a public or private water supply system, a licensed  
12 landscape irrigation contractor shall obtain a water supply protection specialist  
13 endorsement from the State Plumbing Board. The State Plumbing Board shall issue  
14 a special endorsement of a water supply protection specialist to any licensed  
15 landscape irrigation contractor who completes the training required by the State  
16 Plumbing Board as provided for in R.S. 37:1368(H)(1); however, neither a  
17 journeyman plumber's license nor a master plumber's license shall be required.

18 (5) Backflow prevention devices shall be installed in accordance with the  
19 provisions of Part XIV of the Louisiana State Sanitary Code by a person holding a  
20 water supply protection specialist endorsement.

21 (6) Nothing in this Subsection shall permit any licensed landscape irrigation  
22 contractor to perform any electrical or plumbing services not provided for in this  
23 Subsection, for which a license is required from any other regulatory board. Nothing  
24 in this Subsection shall prohibit a licensed electrician or plumber from providing  
25 electrical or plumbing services necessary to make or keep an irrigation system  
26 operational.

27 Section 2. R.S. 3:3801(A)(6) and (C)(3), 3804(A)(2) and (3), 3807(B)(2) and (3),  
28 and 3808(B) and (C) are hereby repealed in their entirety.

1 Section 3. Any rule or regulation promulgated by the Department of Agriculture and  
2 Forestry providing for the regulation, examination, and licensing of retail florists and  
3 wholesale florists shall be null, void, and without effect upon the effective date of this Act.  
4 The Department of Agriculture and Forestry shall issue a notice of intent to amend its rules  
5 and regulations in conformity with this Act on or before September 1, 2018 and adopt the  
6 amended rules and regulations on or before December 1, 2018.

7 Section 4. This Act shall become effective upon signature by the governor or, if not  
8 signed by the governor, upon expiration of the time for bills to become law without signature  
9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
10 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
11 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 561 Reengrossed

2018 Regular Session

Emerson

**Abstract:** Repeals the examination and licensing of retail and wholesale florists and creates a floral dealer permit.

Present law authorizes a retail florist to arrange or supervise the arrangement of floral designs which include living or freshly cut plant materials and to sell at retail floral designs, cut flowers, and ornamental plants in pots normally and customarily sold by florists. Proposed law repeals present law.

Present law authorizes a wholesale florist to prepare and sell cut flowers, plant materials, and ornamental plants in pots normally and customarily used by retail florists to persons who hold a retail florist's license and to prepare and sell cut flowers to persons who hold a cut flower dealer's permit. However, prohibits a wholesale florist from arranging or selling floral designs. Proposed law repeals present law.

Present law provides that the membership of the Horticulture Commission includes a retail florist and a wholesale florist. Proposed law repeals present law and provides that the membership includes a floral dealer.

Present law provides for the regulation, examination, and licensing of retail and wholesale florists. Proposed law repeals present law and creates a floral dealer permit.

Proposed law establishes a floral dealer permit fee that is no less than \$70 nor more than \$100 per permit.

Proposed law authorizes a floral dealer to sell cut flowers and ornamental plants in pots and modifies provisions regulating the operation of vending machines by restricting permittees to their respective parishes, no more than 25 miles beyond their place of business.

Proposed law declares that any rule or regulation providing for the regulation, examination, and licensing of retail and wholesale florists are null, void, and without effect upon the effective date of proposed law.

Proposed law requires the department to issue a notice of intent to amend its rules and regulations in conformity with proposed law on or before Sept. 1, 2018 and adopt same on or before Dec. 1, 2018.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 3:3801(A)(intro. para.) and (5) and (C)(2), 3805, 3806(E) through (H), and 3808(I) through (P); Adds R.S. 3:3804(B)(3), 3806(I), and 3808(Q); Repeals R.S. 3:3801(A)(6) and (C)(3), 3804(A)(2) and (3), 3807(B)(2) and (3), and 3808(B) and (C))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill:

1. Create a floral dealer permit.
2. Add a flower dealer to the Horticulture Commission.
3. Establish a permit fee between \$70 and \$140 for each floral dealer.
4. Authorize the floral dealer permit holder to sell cut flowers and ornamental plants in pots.
5. Modify provisions regulating the operation of vending machines by restricting permittees to their respective parishes, no more than 25 miles beyond their place of business.
6. Make technical changes.

#### The House Floor Amendments to the engrossed bill:

1. Change the maximum floral dealer permit fee from \$140 to \$100.
2. Make technical changes.