

2016 Regular Session

SENATE BILL NO. 382

BY SENATORS THOMPSON, ALLAIN, FANNIN, LONG AND JOHN SMITH

AGRICULTURAL COMMODITIES. Prohibits local governmental entities and other local governing authorities from regulating the registration, distribution, sale, or planting of seeds. (gov sig)

AN ACT

To enact R.S. 3:1434(6) and 1450, relative to the regulation of seeds; to prohibit local governmental entities and other local governing authorities from regulating the registration, distribution, sale, or planting of seeds; to provide for the powers of the commissioner of agriculture and forestry; to provide for the duties of the Agricultural Chemistry and Seed Commission; to provide for a process for amending department rules and regulations; to require ordinance and restriction approval by the commissioner; to provide for adjudicatory proceedings; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:1434(6) and 1450 are hereby enacted to read as follows:

§1434. Powers and duties of the commissioner

The commissioner shall:

\* \* \*

**(6) Have exclusive jurisdiction and authority over all matters related to the regulation of seeds.**

\* \* \*

1        **§1450. Local regulations**

2                **A. The regulation of seeds is preempted by this Part. No municipality,**  
3                **parish, local governmental entity, or governing authority of any public or**  
4                **private group or association having jurisdiction over a specific geographic area**  
5                **shall enact ordinances or subdivision restrictions or regulations regarding seeds**  
6                **that in any way affect the registration, distribution, sale, or planting of seeds,**  
7                **except as provided for in this Section.**

8                **B. Municipalities, parishes, local governmental entities, or governing**  
9                **authorities of any public or private group or association may request that a**  
10               **department rule or regulation applicable to the registration, distribution, sale,**  
11               **or planting of seeds be amended to provide for specific problems encountered**  
12               **in or by the entity, group, or association. The following provisions shall govern**  
13               **any such request:**

14               **(1) The request shall be addressed to the commissioner and referred to**  
15               **the commission for a hearing.**

16               **(2) The commission shall make a preliminary determination as to**  
17               **whether the department rule or regulation should be amended and shall**  
18               **transmit its determination to the commissioner.**

19               **(3) Upon receipt of the commission's preliminary determination, the**  
20               **commissioner shall make a final determination as to whether the department**  
21               **rule or regulation should be amended.**

22               **(4) If the commissioner determines that the department rule or**  
23               **regulation should be amended, the commission shall adopt a rule or regulation**  
24               **consistent with the commissioner's determination. If the commissioner**  
25               **determines that the department rule or regulation should not be amended, a**  
26               **written notice of his decision shall be provided to the requesting party.**

27               **C. Municipalities, parishes, and local governmental entities shall petition**  
28               **the commissioner for approval of any ordinance applicable to the registration,**  
29               **distribution, sale, or planting of seeds. The governing authority of a public or**

1 private group or association shall petition the commissioner for approval of any  
2 subdivision restriction or regulation applicable to the registration, distribution,  
3 sale, or planting of seeds. The procedure for obtaining such approval shall be  
4 as follows:

5 (1) The proposed ordinance or subdivision restriction or regulation shall  
6 be sent to the commissioner and referred to the commission for a hearing.

7 (2) The commission shall make a preliminary determination as to the  
8 approval or disapproval of the proposed ordinance or subdivision restriction or  
9 regulation and shall transmit its determination to the commissioner.

10 (3) Upon receipt of the commission's preliminary determination, the  
11 commissioner shall approve or disapprove the proposed ordinance or  
12 subdivision restriction or regulation.

13 (4) The requesting party shall be notified of the commissioner's decision  
14 in writing.

15 (5) Any governing authority aggrieved by a final decision of the  
16 commissioner shall have a right to judicial review of the administrative process  
17 pursuant to the Administrative Procedure Act.

18 D. Municipalities, parishes, local governmental entities, and governing  
19 authorities of a public or private group or association, having in effect, on July  
20 1, 2016, an ordinance or subdivision restriction or regulation affecting the  
21 registration, distribution, sale, or planting of seeds shall submit the ordinance  
22 or subdivision restriction or regulation to the commissioner on or before  
23 December 1, 2016, for approval pursuant to the provisions of this Section. Any  
24 such ordinance or subdivision restriction or regulation received by the  
25 commissioner on or before December 1, 2016, shall continue in full force and  
26 effect, unless the commissioner disapproves the ordinance or subdivision  
27 restriction or regulation in accordance with the provisions of this Section. Any  
28 such ordinance or subdivision restriction or regulation not received by the  
29 commissioner on or before December 1, 2016, shall be void.

1           Section 2. This Act shall become effective upon signature by the governor or, if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Curry Lann.

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DIGEST

SB 382 Engrossed

2016 Regular Session

Thompson

Proposed law grants the commissioner of agriculture and forestry exclusive jurisdiction and authority over all matters related to the regulation of seeds.

Proposed law prohibits municipalities, parishes, local governmental entities, or governing authorities of any public or private group or association having jurisdiction over a specific geographic area from enacting ordinances or subdivision restrictions or regulations regarding seeds that in any way affect the registration, distribution, sale, or planting of seeds.

Proposed law authorizes municipalities, parishes, local governmental entities, or governing authorities of any public or private group or association to request that department rules or regulations applicable to the registration, distribution, sale, or planting of seeds be amended to provide for specific problems encountered in or by the entity, group, or association. The following provisions shall govern any such request:

- (1) The request shall be addressed to the commissioner and referred to the commission for a hearing.
- (2) The commission shall make a preliminary determination as to whether the department rule or regulation should be amended and shall transmit its determination to the commissioner.
- (3) Upon receipt of the commission's preliminary determination, the commissioner shall make a final determination as to whether the department rule or regulation should be amended.
- (4) If the commissioner determines that the department rule or regulation should be amended, the commission shall adopt a rule or regulation consistent with the commissioner's determination. If the commissioner determines that the department rule or regulation should not be amended, a written notice of his decision shall be provided to the requesting party.

Proposed law requires municipalities, parishes, and local governmental entities to petition the commissioner for approval of any ordinance applicable to the registration, distribution, sale, or planting of seeds. Proposed law further requires the governing authority of a public or private group or association to petition the commissioner for approval of subdivision restrictions or regulations. The procedure for obtaining such approval shall be as follows:

- (1) The proposed ordinance or subdivision restriction or regulation shall be sent to the commissioner and referred to the commission for a hearing.
- (2) The commission shall make a preliminary determination as to the approval or

disapproval of the proposed ordinance or subdivision restriction or regulation and shall transmit its determination to the commissioner.

- (3) Upon receipt of the commission's preliminary determination, the commissioner shall approve or disapprove the proposed ordinance or subdivision restriction or regulation.
- (4) The requesting party shall be notified of the commissioner's decision in writing.
- (5) Any governing authority aggrieved by a final decision of the commissioner shall have a right to judicial review of the administrative process pursuant to the APA.

Proposed law requires municipalities, parishes, local governmental entities, and governing authorities of a public or private group or association, having in effect, on July 1, 2016, an ordinance or subdivision restriction or regulation affecting the registration, distribution, sale, or planting of seeds to submit the ordinance or subdivision restriction or regulation to the commissioner on or before December 1, 2016, for approval. Any such ordinance or subdivision restriction or regulation received by the commissioner on or before December 1, 2016, shall continue in full force and effect, unless the commissioner disapproves the ordinance or subdivision restriction or regulation. Any such ordinance or subdivision restriction or regulation not received by the commissioner on or before December 1, 2016, is void.

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

(Adds R.S. 3:1434(6) and 1450)