

CHAPTER 593

AGRICULTURAL COMMODITY INSECT CONTROL

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593.101 Short title.—Sections 593.101–593.117 may be cited as the “Florida Boll Weevil Eradication Law.”

History.—s. 1, ch. 87–55; s. 1, ch. 88–303; s. 4, ch. 91–429.

593.102 Definitions.—For the purposes of ss. 593.101–593.117, the term:

(1) “Department” means the Department of Agriculture and Consumer Services.

(2) “Commercial cotton grower” means a person who is engaged in and has an economic risk in the business of producing, or causing to be produced, cotton for market.

(3) “Eradication zone” means a geographical area designated by the department as an eradication zone.

(4) “Noncommercial or volunteer cotton” means cotton intended for purposes other than processing.

(5) “Regulated article” means an article carrying or capable of carrying the boll weevil.

History.—s. 2, ch. 87–55; s. 1, ch. 88–303; s. 4, ch. 91–429.

593.103 Powers and duties of department.—The department has the power and duty to:

(1) Administer and enforce the provisions of ss. 593.101–593.117.

(2) Promulgate rules necessary to the enforcement of ss. 593.101–593.117.

(3) Enter upon any grounds, premises, or means of conveyance in this state for the purpose of inspection, quarantine, or eradication in reference to the boll weevil.

(4) Require each person growing cotton in this state to furnish, on forms supplied by the department, such information as the department may require relating to the acreage and locations of all commercial cotton, noncommercial cotton, and volunteer cotton being grown by that person in this state.

(5) Declare a quarantine against any area, place, or political unit within this state, another state, a territory, or a foreign country, or any portion thereof, in order to prevent or reduce the spread of the boll weevil in an eradication zone.

(6) Enter into a cooperative arrangement with any person, municipality, county, or other department of this state; any agency, officer, or authority of another state or of the United States Government; any other person engaged in the growing, processing, marketing, or handling of cotton; or any other person or group, for the purpose of cost sharing or assignment of duties and responsibilities in destroying and eliminating the boll weevil in this state.

(7) Govern the movement of regulated articles into, out of, or within an eradication zone.

(8) Establish eradication zones within the state where eradication efforts will be undertaken.

(9) Restrict or prohibit the planting of cotton in an eradication zone if the department determines that the planting of cotton in the zone will jeopardize the success of the eradication effort in the zone.

(10) Require that all growers of cotton in designated eradication zones participate in the eradication program, including cost sharing, through assessment.

(11) Restrict the movement of livestock, humans, and honeybee colonies in any eradication zone that has been or is to be treated with pesticides for eradication of the boll weevil.

(12) Enter upon any premise, property, or field within an eradication zone to treat it with pesticides or destroy any volunteer or noncommercial cotton when the department determines the action is necessary.

(13) Destroy or require the destruction of commercial cotton in an eradication zone when it is not being grown in compliance with ss. 593.101–593.117.

History.—s. 3, ch. 87–55; s. 1, ch. 88–303; s. 4, ch. 91–429.

593.104 Entry of premises; eradication activities; inspections.—The department may enter any cotton field or premise in order to carry out eradication and inspection activities as may be necessary to carry out the provisions of ss. 593.101–593.117.

The department may inspect any field, premise, or item of equipment in this state for the purpose of determining whether any plant, property, or equipment is infested with the boll weevil.

History.—s. 4, ch. 87–55; s. 1, ch. 88–303; s. 4, ch. 91–429.

593.105 Reports by persons growing cotton.—Each person growing cotton in this state shall furnish to the department, on forms supplied by the department, such information as the department may require concerning the size and location of all commercial cotton

fields and of all noncommercial fields of cotton grown as ornamentals or for other purposes.

History.—s. 5, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.

593.106 Quarantine; regulation of articles within eradication zone.—

(1) The department may declare a quarantine against any place or political unit within this state, another state, a territory, a foreign country, or any portion thereof, in order to prevent or reduce the spread of the boll weevil in an eradication zone. It is unlawful thereafter, until such quarantine is removed, for any person to introduce into the eradication zone, or to move or dispose of within the eradication zone, any regulated article, except under rules prescribed by the department.

(2) Any regulated article that is moved into or within an eradication zone in violation of ss. 593.101-593.117 is deemed contraband and shall be confiscated by the department without payment of compensation.

History.—s. 6, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.

593.107 Regulation of collection, transportation, distribution, and movement of cotton.—

Each grower of cotton shall keep and furnish the department such information as it may, by rule, require regarding the collection, transportation, distribution, and processing of cotton for the purpose of determining if the cotton is infested with the boll weevil. Further, each such grower is required to keep and maintain sanitary at all times his vehicles used in the collection, transportation, and distribution of cotton under such rules as may be required by the department. The department may promulgate rules governing the movement of regulated articles within the state and from another state, or portion thereof, into an eradication zone when that state is known to be infested with the boll weevil.

History.—s. 7, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.

593.108 Cooperative programs authorized.—The department is authorized to cooperate with any agency of the Federal Government or any state contiguous to this state, any other agency in this state, or any person or group of persons engaged in growing, processing, marketing, or handling cotton in this state in programs to carry out the purposes of ss. 593.101-593.117; and it may enter into written agreements to carry out those purposes. The agreements may provide for cost sharing and for division of duties and responsibilities under ss. 593.101-593.117 and may include other provisions generally to carry out the purposes of ss. 593.101-593.117.

History.—s. 8, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.

593.109 Authority to designate eradication zones, prohibit planting of cotton, and require participation in eradication program.—

(1) The department shall designate by rule one or more areas of this state as "eradication zones" where boll weevil eradication programs will be undertaken. The department shall promulgate rules regarding areas where cotton may not be planted within an eradication zone if the department has reason to believe the planting of cotton in those areas will jeopardize the success of the program. The department may promulgate rules prohibiting the planting of noncommercial cotton in

eradication zones. The department may promulgate rules requiring all growers of commercial cotton in an eradication zone to participate in a program of boll weevil eradication, including participation in cost sharing.

(2) The department is authorized to set by rule a schedule of penalty fees to be assessed when growers in designated eradication zones do not meet the requirements of the rules issued by the department with respect to reporting of acreage and participation in cost sharing as prescribed by rule. The penalty fees may not exceed a charge of \$25 per acre. When a grower fails to meet the requirements of the rules adopted by the department, the department may destroy any of the grower's cotton in the eradication zone that is not in compliance with prescribed rules.

History.—s. 9, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.

593.111 Authority to regulate pasturage, entry, and honeybee colonies in eradication zones and other areas.—

The department may restrict the pasturage of livestock, entry by persons, and location of honeybee colonies in any premises in eradication zones that have been or are to be treated with pesticides or otherwise treated to cause the eradication of the boll weevil or in any other area that may be affected by the eradication treatments.

History.—s. 10, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.

593.111 Eligibility for certification of cotton growers' organization.—

(1) To be eligible for certification by the department as the cotton growers' association, the cotton growers' organization must:

(a) Be a nonprofit organization within the meaning of s. 501(a) of the Internal Revenue Code of 1954 (26 U.S.C. s. 501(a)).

(b) Be open to all commercial cotton growers in this state.

(c) Have only one class of members, with each member having only one vote.

(d) Be governed by a board of directors consisting of seven commercial cotton growers elected by the membership and one employee of the department appointed by the department, who shall be a nonvoting member.

(2)(a) The terms of office of the board members shall be for 3 years or until their successors are duly appointed and qualified. The terms of office of members of the first board shall date from November 1, 1987.

(b) Immediately after their appointment, the members of the board shall meet and organize by the election of a chairman and a vice chairman, whose terms of office shall be for 1 year. The board shall meet at the call of its chairman, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules. A majority of the members of the board shall constitute a quorum for all purposes, and an act by a majority of such quorum at any meeting shall constitute an official act of the board.

(c) The members of the board shall receive no compensation for their services, except that they shall receive per diem and travel expenses as provided in s. 112.061, when actually engaged in the business of the board.

(3) The books, records of account, and minutes of proceedings of the board shall be available for inspection or audit by the department upon request at any reasonable time. The board shall provide the department with an annual audit of its accounts performed by a certified public accountant.

(4) Any employee or agent of the board who handles its funds must be adequately bonded.

History.—s. 11, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.

593.112 Certification of cotton growers' organization.—The cotton growers' organization may be certified by the department for the purpose of entering into agreements with any person, municipality, county, or other department of this state or any agency, officer, or authority of another state or the United States Government as may be necessary to carry out the purposes of ss. 593.101-593.117. If the department finds that the growers' organization meets the requirements set forth in s. 593.111, the department shall issue certification to the organization for purposes of ss. 593.101-593.117 only. Such certification does not affect any other organization of cotton growers established for other purposes. The department is authorized to revoke the certification if at any time the organization fails to meet the certification requirements or the purposes of ss. 593.101-593.117.

History.—s. 12, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.

593.113 Referendum.—Upon the request of the certified cotton growers' organization, the department shall conduct a referendum among all cotton growers in an eradication zone to determine whether an assessment shall be levied upon them to cover, in whole or in part, the cost of boll weevil suppression and eradication programs authorized by ss. 593.101-593.117. Subsequent referenda to determine changes in assessments or program activities shall be conducted by the department upon the request of the certified cotton growers' organization. All referenda are subject to the following conditions:

(1) All affected commercial cotton growers must be entitled to vote, and any question of eligibility must be determined by the department.

(2) At least 51 percent of the commercial cotton growers in the eradication zone must be required to vote, and passage of the referendum must require a two-thirds majority of those growers voting.

History.—s. 13, ch. 87-55; s. 1, ch. 88-303; s. 1, ch. 90-128; s. 4, ch. 91-429.

593.114 Assessments.—

(1) Assessments shall be collected by the department or its agent and deposited in the State Treasury to the credit of the Plant Industry Trust Fund. Except as otherwise provided herein, upon appropriation by the Legislature, all moneys received under the provisions of this section shall be remitted to the certified growers' organization subject to such terms and conditions as the department, after consultation with the board of directors of the cotton growers' organization, prescribes to ensure that the assessments are used in a sound program of boll weevil suppression and eradication.

(2)(a) All assessments shall be levied on a per acre basis.

(b) Upon recommendation by the board of directors of the cotton growers' organization, the department shall establish a per acre assessment, the period for which it will be levied, and the geographical area to which it applies.

(c) The assessment shall not exceed \$35 per acre per year.

(3)(a) An assessment shall be levied upon all commercial cotton growers for each growing season on each acre or part of an acre where cotton was grown in this state in the corresponding amount described below:

Growing Season	Per-acre Assessment
1987	\$5.00
1988	17.50
1989	25.00
1990	27.00
1991	14.00

The assessments levied for each part of an acre shall be prorated proportionally.

(b) Any commercial cotton grower who has paid the entire per-acre assessment amount due pursuant to an assessment levied on or before March 16, 1992, for any growing season listed in paragraph (a) shall be considered paid in full for that growing season.

(c) Any commercial cotton grower who has not paid in full the per-acre assessment due for any growing season in paragraph (a) shall remit the unpaid amount in the following manner:

1. One-third of the total amount due for all growing seasons shall be remitted to the department on or before December 31, 1992.

2. One-third of the total amount due for all growing seasons shall be remitted to the department on or before December 31, 1993.

3. The remaining balance due for all growing seasons shall be remitted to the department on or before December 31, 1994.

(d) Paragraph (c) shall not apply to any assessment levied under subsections (1) and (2) on or before January 1, 1992, if such assessment is upheld by the highest court of competent jurisdiction which has not been reversed by a higher court. Any such assessment shall be due and payable as originally assessed.

(e) In the event any assessment made under subsections (1) and (2) prior to January 1, 1992, is upheld by the highest court of competent jurisdiction which has not been reversed by a higher court, any assessment paid under this subsection shall be credited toward the assessments made under subsections (1) and (2), and any assessment so paid and credited under subsections (1) and (2) shall not be payable under this subsection.

(f) A commercial cotton grower who fails to pay any assessment levied under this section by the time periods listed in this subsection shall be subject to a penalty of not more than \$25 per acre, such amount to be established by rule of the department.

(g) The assessments shall be remitted to the certified growers' organization in the manner prescribed by this section.

(4)(a) If any assessment made under this chapter to defray the whole or any part of the expense of any eradication or suppression program is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the department is satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the department fails to make such assessment when it might have done so, the department shall take all necessary steps to cause a new assessment to be made for the whole or any part of the cost of any eradication or suppression program, following as nearly as possible the provisions of this chapter, and, in case such second assessment is annulled, the department may obtain and make other assessments until a valid assessment is made.

(b) The provisions of this subsection shall apply to any assessment levied under this chapter on or after May 1, 1987.

(5) A commercial cotton grower who fails to pay any assessment levied under this chapter by the applicable due date shall be subject to interest on the unpaid assessment at the rate set forth in chapter 55. Such interest shall accrue from the date the assessment was due until payment.

History.—s. 14, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429; s. 1, ch. 92-23.

593.1141 Authority to enter agreements with the Agricultural Stabilization and Conservation Service.—

The department is authorized to enter into agreements with the Agricultural Stabilization and Conservation Service, "ASCS," for the purpose of allowing a cotton grower to tender payment of assessments, including penalties, to the ASCS.

History.—s. 1, ch. 94-302.

593.1142 Liens.—

(1)(a) All assessments, penalties, interest, and costs not paid by a cotton grower shall constitute and operate as a lien in favor of the department. The lien shall arise as of the time the assessments become due and payable and shall cover all real and personal property owned by the grower from the date the lien arises until paid. The lien shall secure all unpaid assessments, penalties, interest, and costs which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. The lien may be recorded in the public records of any county where the grower owns real and personal property and shall state the name of the cotton grower and the amount due.

(b) The department may enforce the lien upon real property in the manner a mortgage of real property is foreclosed. The lien may also be enforced against personal property in the manner provided for the enforcement of other liens on personal property in this state. Enforcement of a lien for assessments, penalties, interest, and costs shall not operate as a waiver of any other remedies available to the department, including an action to recover a money judgment for the unpaid assessments, penalties, interest, and costs, or enforcement of the lien provided in subsection (2).

(2)(a) In addition to the lien provided in paragraph (1)(a), the department shall have a special lien on cotton, including the cottonseed and any other extracted prod-

uct. Notwithstanding any provisions to the contrary under chapter 697, any special lien on cotton for assessments, penalties, interest, and costs, which assessments, penalties, interest, and costs accrue before December 31, 1994, shall have equal dignity and the same priority as liens for taxes in favor of the state as described in s. 197.122. The special lien shall arise as of the time the assessments become due and payable and shall cover all cotton grown by the cotton grower from the date the lien arises until paid. The lien shall secure all unpaid assessments, penalties, interest, and costs which are due and which may accrue prior to the enforcement of the lien.

(b) The department may provide notice of a claim of lien to potential buyers by tagging the cotton as being subject to a lien or by mailing a copy of a claim of the lien. The claim of lien shall state the name of the cotton grower, the year or years of the unpaid assessment, and the amount of assessments, penalties, interest, and costs that is due.

(c) The special lien on cotton may be enforced in the manner provided for the enforcement of other liens on personal property in this state. The lien shall also extend to the proceeds of a sale of the cotton to a buyer. If a buyer has not received written notice of the lien and the cotton is not tagged, then such buyer takes free of the lien. A buyer of cotton other than a person buying cotton from the grower takes free of the lien created by this subsection. Nothing in this subsection shall be construed to operate as a waiver of other remedies available to the department for unpaid assessments, penalties, interest, and costs, including an action to recover a money judgment for the unpaid assessments, penalties, interest, and costs, or enforcement of the lien provided in paragraph (1)(b).

(3) The department is authorized to assign any judgments and liens for assessments, penalties, interest, and costs in its favor to a certified cotton growers' organization.

History.—s. 2, ch. 94-302.

593.115 Mandamus or injunction.—The circuit courts of this state shall have the power to enforce any of the provisions of ss. 593.101-593.117, and any rule of the department pursuant thereto, by mandamus or temporary or permanent injunction, either or both, upon the application of the department, against any person who violates any provision of ss. 593.101-593.117 or any rule of the department adopted pursuant to ss. 593.101-593.117.

History.—s. 15, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.

593.116 Penalty for violation.—

(1) Any person who, except in compliance with ss. 593.101-593.117 or rules of the department, moves any regulated article within the state or into this state from any other state against which the department has declared a quarantine pursuant to ss. 593.101-593.117 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or, upon a second or subsequent conviction thereof, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A commercial cotton grower who fails to pay any assessment levied under ss. 593.101-593.117 or fails to destroy cotton stalks by February 1 of each year in which the boll weevil eradication program is in effect is subject to a penalty of not more than \$25 per acre, such amount to be established by the department upon the recommendation of the board of directors of the cotton growers' organization.

(3) Any commercial cotton grower who fails to pay all assessments, including penalties, within 30 days after the date of the notice is required to destroy all cotton plants growing on his property subject to assessment. Any cotton plant not destroyed is deemed a public nuisance. The department may apply to any court of competent jurisdiction, and the court is authorized, in its

discretion, to issue judgment and order condemnation and destruction of the nuisance. The grower is liable for all court costs, fees, and other expenses incurred in such action.

History.—s. 16, ch. 87-55; s. 1, ch. 88-303; s. 1, ch. 89-11; s. 4, ch. 91-429.

593.117 Handling of moneys received.—All moneys received by the department under the provisions of ss. 593.101-593.117, other than appropriated funds and moneys collected as assessments, shall be deposited in the State Treasury to the credit of the Plant Industry Trust Fund and shall be used by the department to defray its expenses in carrying out the duties imposed on it by ss. 593.101-593.117.

History.—s. 17, ch. 87-55; s. 1, ch. 88-303; s. 4, ch. 91-429.