

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 167 OF 1995
HOUSE BILL 1133

4 **By: Representatives McGinnis, Baker, Calhoun, Fletcher, and Simmons**

5
6
7

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 2-16-203 TO AUTHORIZE THE
9 STATE PLANT BOARD TO ASSESS CIVIL PENALTIES; AND FOR OTHER
10 PURPOSES."

11

Subtitle

12
13 "TO AMEND ARKANSAS CODE 2-16-203 TO
14 AUTHORIZE THE STATE PLANT BOARD TO
15 ASSESS CIVIL PENALTIES."

16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18

19 SECTION 1. Arkansas Code 2-16-203 is amended to read as follows:

20 "2-16-203. Penalty.

21 (a) Fines. Any person who shall violate any provisions or requirements
22 of this subchapter, or the rules and regulations made, or of any notice given
23 pursuant thereto, or who shall forge, counterfeit, deface, destroy, or
24 wrongfully use any certificate provided for in this subchapter, or in the
25 rules and regulations made pursuant thereto, shall be deemed guilty of a
26 misdemeanor, and upon conviction he shall be punished by a fine of not more
27 than one hundred dollars (\$100).

28 (b) Civil penalties.

29 (1) The Plant Board may, in a lawful proceeding respecting
30 licensing, as defined in the Arkansas Administrative Procedures Act A.C.A. 25-
31 15-201 et seq., in addition to or in lieu of any other lawful disciplinary
32 action, assess a civil penalty of not more than one thousand dollars (\$1,000)
33 for each violation of any statute, rule or order enforceable by the Plant
34 Board. In no case shall a single application or drift incident by a pesticide
35 applicator be considered multiple violations based on the number of
36 complaints. In no case shall the failure to meet minimum treating standards

1 (Act 488 of 1975, Sections III A, III B, III C, and III D) except those which
2 require a termiticide application be considered a violation and subject to a
3 civil penalty.

4 (2) The Plant Board shall by rule establish a schedule
5 designating the minimum and maximum civil penalty which may be assessed under
6 this section for violation of each statute, rule, or order over which it has
7 regulatory control. Authority is vested in the Plant Board to promulgate any
8 other regulations necessary to carry out the intent of this section.

9 (3) In the event of nonpayment of any civil penalty lawfully
10 assessed pursuant to subsection (1), such penalty shall be recoverable in the
11 name of the state by the Attorney General in the circuit court of Pulaski
12 County or county in which the violation occurred.

13 (4) All sums paid or recovered under this section shall be
14 deposited into the State Treasury. Sums collected under special revenue
15 programs shall be deposited in the Plant Board special revenue fund. Sums
16 collected under general services programs shall be deposited into the state
17 general service fund.

18 (5) All rules and regulations promulgated pursuant to this act
19 shall be reviewed by the Joint Interim Committee on Agriculture and Economic
20 Development or a subcommittee thereof."

21

22 SECTION 2. All provisions of this act of a general and permanent nature
23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
24 Revision Commission shall incorporate the same in the Code.

25

26 SECTION 3. If any provision of this act or the application thereof to
27 any person or circumstance is held invalid, such invalidity shall not affect
28 other provisions or applications of the act which can be given effect without
29 the invalid provision or application, and to this end the provisions of this
30 act are declared to be severable.

31

32 SECTION 4. All laws and parts of laws in conflict with this act are
33 hereby repealed.

34

/s/Mcginnis, et al

35

As Engrossed: 1/19/95

HB 1133

1

APPROVED: 2-6-95

0111951022.mhf086