

NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 958
HOUSE BILL 474

AN ACT TO PROVIDE FOR THE ERADICATION OF THE BOLL WEEVIL.

The General Assembly of North Carolina enacts:

Section 1. Short Title. This act may be cited as the Uniform Boll Weevil Eradication Act.

Sec. 2. Declaration of policy. The *Anthonomus grandis* Boheman, known as the boll weevil, is hereby declared to be a public nuisance, a pest, and a menace to the cotton industry. The purpose of this act is to secure the eradication of the boll weevil.

Sec. 3. Definitions. As used in this act, the following words shall have the meaning stated below, unless the context requires otherwise:

1. Commissioner. The Commissioner of the Department of Agriculture of this State or any officer or employee of said Department or designated cooperator to whom authority to act in his stead has been or hereafter may be delegated.
2. Boll weevil. *Anthonomus grandis* Boheman, the boll weevil, in any stage of development.
3. Cotton. Any cotton plant or cotton plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.
4. Host. Any plant or plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.
5. Infested. Actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.
6. Person. Any individual, corporation, company, society, or association, or other business entity.
7. Regulated article. Any article of any character carrying or capable of carrying the boll weevil, including, but not limited to cotton plants, seed cotton, other hosts, gin trash, and mechanical cotton pickers, as designated by regulations of the Commissioner.
8. Certificate. A document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with boll weevils.
9. Permit. A document issued or authorized by the Commissioner to provide for the movement of regulated articles to restricted destinations for limited handling, utilization, or processing.

Sec. 4. Cooperative programs authorized. The Commissioner is hereby authorized and directed to carry out programs to destroy and eliminate boll weevils in this State. The Commissioner 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 engaged in growing, processing, marketing, or handling cotton, or any group of such persons, in this State, in programs to effectuate the purposes of this act, and may enter into written agreements to effectuate such purposes. Such agreements may provide for cost sharing, and for division of duties and responsibilities under this act and may include other provisions generally to effectuate the purposes of this act.

Sec. 5. Entry of premises; eradication activities; inspections. The Commissioner, or his authorized representative, shall have authority, as provided in this section, to enter cotton fields and other premises in order to carry out such activities, including but not limited to treatment with pesticides, monitoring, and destruction of growing cotton and/or other host plants, as may be necessary to carry out the provisions of this act. The Commissioner, or his authorized representative, shall have authority to make inspection of any fields or premises in this State and any property located therein or thereon for the purpose of determining whether such property is infested with the boll weevil. Such inspection and other activities may be conducted at any hour with the permission of the owner or person in charge. If permission is denied the Commissioner or his authorized representative, such inspection and other activities may be conducted without a warrant with respect to any outdoor premises, if conducted in a reasonable manner between the hours of sunrise and sunset. Such inspections and other activities may be conducted in a reasonable manner, with a warrant, with respect to any premises. Any judge of this State may, within his territorial jurisdiction, and upon proper cause to believe that any cotton or other regulated article is in or upon any premises in this State, issue warrants for the purpose of conducting administrative inspections and other activities authorized by this act.

Sec. 6. Reports. Every person growing cotton in this State shall furnish to the Commissioner, or his authorized representative, on forms supplied by the Commissioner, such information as the Commissioner may require, concerning the size and location of all commercial cotton fields and of non-commercial patches of cotton grown as ornamentals or for other purposes.

Sec. 7. Quarantine. The Commissioner is authorized to promulgate regulations, quarantining this State, or any portion thereof, and governing the storage or other handling in the quarantined areas of regulated articles and the movement of regulated articles into or from such areas, when he shall determine that such action is necessary, or reasonably appears necessary, to prevent or retard the spread of the boll weevil. Before quarantining any area, the Commissioner shall hold a public hearing under such rules as he shall determine, at which hearing any interested party may appear and be heard either in person or by attorney: Provided, however, the Commissioner may promulgate regulations, imposing a temporary quarantine for a period not to exceed 60 days, during which time a public hearing, as herein provided, shall be held if it appears that a quarantine for more than 60 days will be necessary to prevent or retard the spread of the boll weevil. It shall be unlawful for any person to store or handle any regulated article in a quarantined area, or to move into or from a quarantined area any regulated article, except under such conditions as may be prescribed by the regulations promulgated by the Commissioner.

Sec. 8. Authority to designate elimination zones; authority to prohibit planting of cotton and to require participation in eradication program. The Commissioner, subject to the provisions of Section 13 of this act, is authorized to designate by regulation one or more areas of this State as "elimination zones" where boll weevil eradication programs will be undertaken. The Commissioner is authorized to issue regulations prohibiting the planting of non-commercial cotton in such elimination zones, and requiring that all growers of commercial cotton in the elimination zones participate in a program of boll weevil eradication including cost sharing as prescribed in the regulations. Notice of such prohibition and requirement shall be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

Sec. 9. Authority for destruction or treatment of cotton in elimination zones; compensation payable, when. The Commissioner or his authorized representative shall have authority to destroy, or in his discretion, to treat with pesticides, volunteer or other non-commercial cotton in elimination zones when the Commissioner deems such action necessary to effectuate the purposes of this act. No payment shall be made by the Commissioner to the

owner or lessee for the destruction or injury of any cotton which was planted in an elimination zone after publication of notice as provided in Section 8, or which was otherwise handled in violation of this act. However, the Commissioner shall pay for losses resulting from the destruction of cotton which was planted in such zones prior to promulgation of such notice.

Sec. 10. Authority to regulate pasturage, entry, and honeybee colonies in elimination zones and other areas. The Commissioner is authorized to promulgate regulations restricting the pasturage of livestock, entry by persons, and location of honeybee colonies in any premises in an elimination zone which 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 such treatments.

Sec. 11. Regulations, generally. The Commissioner shall have authority to adopt such other rules and regulations as he deems necessary to further effectuate the purposes of this act. All rules and regulations issued under this act shall be adopted and published in accordance with any additional requirements prescribed in this act.

Sec. 12. Penalties. (1) Any person who shall violate any of the provisions of this act or the regulations promulgated hereunder, or who shall alter, forge or counterfeit, or use without authority, any certificate or permit or other document provided for in this act or in the regulations promulgated hereunder, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000) or by imprisonment not exceeding one year, or both, in the discretion of the court.

- (2) Any person who shall, except in compliance with the regulations of the Commissioner, move any regulated article into this State from any other state which the Commissioner found in such regulations is infested by the boll weevil, shall be guilty of a misdemeanor and shall be subject to the penalties provided in subsection (1) hereof.

Sec. 13. There is hereby appropriated out of the General Fund of the State, to the Department of Agriculture, in addition to all other appropriated funds, the sum of fifty-five thousand dollars (\$55,000) for the 1975-1976 fiscal year in order to carry out the provisions of this act; provided, however, that such funds shall be held in contingency until the Commissioner determines that the federal government and the cotton producers of this State, as determined by referendum, will cooperate and provide an equitable share of the cost of carrying out the provisions of this act. Such cotton producer referendum must receive the favorable vote of two-thirds of the producers casting votes. All producers of commercial cotton in North Carolina shall be eligible to vote.

Sec. 14. Severability provision. If any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this act and of the application of such provision to other persons and circumstances shall not be affected thereby.

Sec. 15. Effective date. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.