

RS 3:730.1

PART X. STRAWBERRIES

§730.1. Purpose

The purpose of this Part is to promote the general well-being of the strawberry industry of the state of Louisiana by promoting increased production and quality in Louisiana strawberries through marketing and research; by expanding the market for Louisiana strawberries through promotion and marketing; by increasing the consumption of strawberries in Louisiana through advertising, promotion, and marketing; by providing producers, distributors, retailers, and consumers with educational information as to the nutritional and health value of strawberries; and by performing any other act deemed advisable in promoting this industry and the general welfare of the people of this state.

Added by Acts 1958, No. 485, §1. Amended by Acts 1968, No. 365, §1; Acts 2003, No. 1253, §1; Acts 2009, No. 24, §8D, eff. June 12, 2009.

RS 3:730.2

§730.2. Terms defined

The terms used in this Part shall be construed to mean as follows:

- (1) "Board" shall mean the Louisiana Strawberry Marketing Board.
- (2) "Commissioner" shall mean the commissioner of agriculture and forestry.
- (3) "Department" shall mean the Department of Agriculture and Forestry.
- (4) "Person" means an individual, partnership, firm, company, association, corporation, limited liability company, and any other legal entity or group of persons.
- (5) "Strawberries" means all strawberries of the grades as recommended by the United States Department of Agriculture and the State Market Commission.

Added by Acts 1958, No. 485, §1. Amended by Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2004, No. 764, §1, eff. July 6, 2004; Acts 2009, No. 24, §8D, eff. June 12, 2009.

RS 3:730.3**§730.3. Louisiana Strawberry Marketing Board**

A. The Louisiana Strawberry Marketing Board is created in the department with its domicile in Baton Rouge, Louisiana.

B.(1) The board shall consist of twelve members. Nine members shall be appointed by the commissioner and confirmed by the Senate as follows:

(a) Seven members shall be practicing strawberry producers.

(b) One member shall be an agricultural chemical dealer, representative, or consultant with knowledge of the strawberry industry.

(c) One member shall be a consumer with knowledge of the strawberry industry.

(2) The commissioner or his designee, the resident coordinator of the Louisiana State University Agriculture Experiment Station at Hammond, and the chairman of the Ponchatoula Strawberry Festival shall serve ex officio and shall have all rights and responsibilities of appointed members. The commissioner or his designee, the resident coordinator of the Louisiana State University Agriculture Experiment Station at Hammond, and the chairman of the Ponchatoula Strawberry Festival shall be counted for purposes of constituting a quorum.

C. Appointed members shall serve terms concurrent with the term of the commissioner making the appointment. The chairman of the Ponchatoula Strawberry Festival shall serve for one year until the end of his term as chairman and shall be automatically replaced by his successor.

D. The presence of six members of the board shall constitute a quorum for the transaction of all business and the carrying out of duties of the board. Each member shall take and subscribe to the oath of office prescribed for state officers. No member of the board shall receive any salary, but each member shall receive the sum of twenty dollars per day for each day spent in actual attendance of meetings of the board and such allowance for traveling expenses in attending the meeting as is allowed other state employees for traveling expenses.

E. The members of the board shall meet and organize immediately after their appointment and annually thereafter shall elect a chairman and a vice chairman from the membership of the board, whose duties shall be those customarily exercised by such officers or specifically designated by the board. The board may establish rules and regulations for its own government and the administration of the affairs of the board.

F. The board shall employ a director and assistant director who shall be appointed by the board, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service. The commissioner is authorized to employ such other personnel necessary to carry into effect the rules, regulations, and ordinances that may be adopted by the board. The commissioner shall appoint an executive secretary for the board.

G. Vacancies in appointed membership positions shall be filled in the same manner as the original appointments. Persons appointed to fill vacancies shall serve out the unexpired portion of the memberships to which they have been appointed.

Added by Acts 1958, No. 485, §1. Amended by Acts 1968, No. 365, §1; Acts 1974, No. 320, §1; Acts 1977, No. 577, §1; Acts 1980, No. 729, §1, eff. July 29, 1980; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 1992, No. 57, §1; Acts 2003, No. 1253, §1; Acts 2004, No. 764, §1, eff. July 6, 2004; Acts 2009, No. 24, §8D, eff. June 12, 2009; Acts 2012, No. 149, §1, eff. May 14, 2012.

RS 3:730.4

§730.4. Powers; commissioner; board

A. The board shall have the following powers:

- (1) To plan and conduct, in consultation with the department, a campaign for advertising, promoting, and marketing Louisiana strawberries, promoting and funding research, increasing consumption of strawberries in Louisiana, providing producers, distributors, retailers, and consumers educational information as to the nutritional and health value of strawberries and fulfilling any other purpose authorized by this Part.
- (2) To enter into any contract or other agreement to accomplish any purpose authorized by this Part, including advertising, education, marketing, promotion, publicity, and research activities or services.
- (3) To decide upon a distinctive logo, emblem, name, or other method for distinguishing Louisiana-produced strawberries and to register or have the department register any such logo, emblem, name, or method and promote the use of same in promoting Louisiana strawberries.
- (4) To hold meetings in the board's parish of domicile or in such other locations within the state as the board may direct.
- (5) To hold hearings on alleged violations of the provisions of this Part or rules and regulations adopted pursuant to this Part.
- (6) To advise the commissioner on the civil penalties to be imposed or the injunctive or other civil relief to be sought to punish and restrain violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.
- (7) To perform such other advisory functions as the commissioner may assign to the board.

B. The commissioner shall have the following powers:

- (1) To adopt rules and regulations as are necessary to implement the provisions of this Part.
- (2) To administer and enforce the provisions of this Part and the rules and regulations adopted pursuant to this Part through the department.
- (3) To collect, administer, and disburse the proceeds of the assessments, penalties, and other monies collected pursuant to this Part.
- (4) To enter, either directly or through a duly authorized agent, the premises of any person producing or shipping strawberries and examine that person's books, accounts, and records, and obtain any other information necessary for purposes of determining that the assessments required under this Part have been collected and transmitted to the department and that the person is in compliance with the provisions of this Part and any regulations adopted pursuant to the provisions of this Part.
- (5) To seek and obtain injunctive or other civil relief to restrain and prevent violations of this Part or rules and regulations adopted pursuant to this Part or orders and rulings issued by the commissioner pursuant to this Part.
- (6) To institute civil proceedings to enforce his orders or rulings, collect any assessments, late fees, fines, penalties, or costs due under this Part and to otherwise enforce the provisions of this Part or rules and regulations adopted pursuant to this Part.

C. Any suit filed by or on behalf of the board, commissioner, or department pursuant to this Part may be filed in East Baton Rouge Parish or in any other parish in which venue is authorized.

Added by Acts 1958, No. 485, §1. Amended by Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2004, No. 764, §1, eff. July 6, 2004; Acts 2009, No. 24, §8D, eff. June 12, 2009.

RS 3:730.5**§730.5. Assessment on strawberries; collection; costs**

A. An assessment is hereby levied on all strawberries produced in Louisiana or produced elsewhere and distributed in Louisiana. For all strawberries sold by volume or dry measure, this assessment is levied on each pint, or equivalent, of strawberries in the amount of \$.00165 for each pint. For all strawberries sold by weight, this assessment is levied on each pound of strawberries in the amount of \$.00185 per pound. Any strawberries sold in increments of pints, pounds, or their equivalent shall be assessed at a prorated assessment for the applicable rate.

B. Louisiana strawberry producers shall pay this assessment at the point of first sale in Louisiana on the containers used by them to hold strawberries. The first Louisiana handler of strawberries produced elsewhere and distributed in Louisiana shall collect the assessment at the point of first distribution in Louisiana.

C. The person responsible for collecting the assessment shall remit the assessment to the commissioner on or before the fifteenth day of the month immediately following each quarter for collections made during that quarter.

D. Any person who fails to pay any assessment due under the provisions of this Part within fifteen days after the payment is due shall be liable not only for the assessment but also for a late fee equal to twenty percent of the amount of the unpaid assessments. Any person cast in judgment for any unpaid assessment or late fee shall pay all costs connected with the bringing of the civil action, including reasonable attorney fees incurred by or on behalf of the board, plus legal interest from date of judicial demand.

Added by Acts 1958, No. 485, §1. Amended by Acts 1977, No. 577, §1; Acts 1990, No. 908, §1; Acts 2003, No. 1253, §1; Acts 2009, No. 24, §8D, eff. June 12, 2009.

RS 3:730.6

§730.6. Deposit and disbursement of assessments

A. All assessments, interest, penalties, and other monies received under the provisions of this Part shall be deposited in a special fund established by the commissioner for the board. The commissioner, as authorized by the board, shall make disbursements from the fund for the activities of the board authorized by this Part.

B. The monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part. The commissioner may retain a portion of the total assessments collected, not to exceed ten percent, as is necessary to defray the costs of collecting assessments and administering and enforcing this Part.

(2) To fund all costs related to advertising, promotion, and marketing of Louisiana strawberries, research, increasing consumption of strawberries in Louisiana, providing producers, distributors, retailers, and consumers educational information as to the nutritional and health value of strawberries and fulfilling any other purpose authorized by this Part.

Added by Acts 1958, No. 485, §1. Amended by Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2004, No. 764, §1, eff. July 6, 2004; Acts 2009, No. 24, §8D, eff. June 12, 2009.

RS 3:730.7**§730.7. Advertising strawberries; contracts**

The board working with the Department of Agriculture and Forestry shall plan and conduct a campaign for advertising, publicizing, and promoting the increased consumption of strawberries and may contract for any advertising, publicity, and sales promotion services, the amount of the contract to be limited each year to the estimated amount of the tax for the year less the estimated cost of administering this Part. The board is further empowered to take any other action which it deems necessary to promote and improve the well-being of the strawberry industry. The commissioner is authorized and empowered to carry out any and all contracts made by the board.

Added by Acts 1958, No. 485, §1. Amended by Acts 1968, No. 365, §1; Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2009, No. 24, §8D, eff. June 12, 2009.

RS 3:730.8

§730.8. Labeling of strawberries; rules and regulations

A. All strawberries offered for sale shall have a stamp or label affixed to the container or package identifying its farm of origin.

B. The board shall adopt rules and regulations as are necessary to implement the provisions of this Section.

Added by Acts 1958, No. 485, §1; Acts 2003, Added by Acts 1958, No. 485, §1. Amended by Acts 1968, No. 365, §1; Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2009, No. 24, §8D, eff. June 12, 2009; Acts 2010, No. 40, §1.

RS 3:730.9

§730.9. Offenses; penalty

A. Any person who violates any of the provisions of this Part or the rules and regulations adopted under the provisions of this Part or who alters, forges, or counterfeits, or uses without authority any certificate or permit or other document provided for in this Part or in the rules or regulations adopted under the provisions of this Part or who fails to collect or to timely pay the assessments or penalties due under this Part shall be subject, in addition to any unpaid assessments, late fees, or collection costs, to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act and this Part as follows:

- (1) The board shall be convened by the commissioner for the purpose of hearing any alleged violation of this Part or any rule and regulation adopted pursuant to this Part.
- (2) The commissioner shall appoint a hearing officer to preside over the hearing.
- (3) The board shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.
- (4) The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the determination of the board, the commissioner shall issue a written opinion based on the record of the hearing.

C. In addition to civil penalties, the commissioner may assess the cost of the adjudicatory hearing against any person found to be in violation of this Part or the regulations adopted pursuant to this Part. The commissioner shall, by rule, determine the amount of costs to be assessed in adjudicatory hearings.

Acts 2010, No. 40, §1, eff. June 30, 2010.