

**REPORT OF THE  
VIRGINIA DEPARTMENT OF AGRICULTURE  
AND CONSUMER SERVICES**

**THE STUDY OF VIRGINIA'S  
COTTON INDUSTRY**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 17**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2000**





# COMMONWEALTH of VIRGINIA

*J. Carlton Courter, III*  
Commissioner

## Department of Agriculture and Consumer Services

PO Box 1163, Richmond, Virginia 23218  
Phone: 804/786-3501 • Fax: 804/371-2945 • Hearing Impaired: 800/828-1120  
<http://www.state.va.us/~vdacs/vdacs.htm>

November 10, 1999

**TO:** The Honorable James S. Gilmore, III, Governor  
Members, Virginia General Assembly

**FROM:** J. Carlton Courter, III, Commissioner *JCC III*

**SUBJECT:** REPORT ON VIRGINIA'S COTTON INDUSTRY

It is my privilege to present this report in response to House Joint Resolution 604 passed during the 1999 Session of the General Assembly.

HJR 604 directs the Department of Agriculture and Consumer Services (VDACS) to—(1) study the transporting, ginning, storing and purchasing of cotton in Virginia; (2) develop a plan to ensure that the interests of the Virginia cotton industry are protected throughout the process of growing, storing and marketing cotton in cooperation with the cotton industry; and (3) submit its findings and recommendations to the Governor and the 2000 Session of the General Assembly.

In carrying out the directives of this resolution, VDACS sought the input of the Virginia Farm Bureau Federation, the Virginia Cotton Growers Association, the Virginia Agribusiness Council, the Virginia Cooperative Extension, and those persons operating cotton gins and warehouses and those involved in the purchasing of cotton.

### ENCLOSURE

cc: The Honorable Barry E. DuVal, Secretary of Commerce and Trade  
Donna Pugh Johnson, President, Virginia Agribusiness Council  
Bruce L. Hiatt, President, Virginia Farm Bureau Federation  
Larry Fowler, President, Virginia Cotton Growers Association



## **PREFACE**

This study was undertaken in response to House Joint Resolution No. 604 requesting the Virginia Department of Agriculture and Consumer Services to study the transporting, ginning, storing and purchasing of cotton in Virginia, and to develop a plan for protecting the interests of the Virginia cotton industry throughout the process of growing, storing and marketing cotton.

We wish to acknowledge the considerable time that members of the cotton industry gave in providing input to this study. A list of persons, including industry and staff persons who participated in the study group meetings, is provided in the appendices.



# TABLE OF CONTENTS

## PREFACE

EXECUTIVE SUMMARY.....	1
TEXT OF REPORT.....	3
BACKGROUND AND AUTHORITY.....	3
CREATION OF VIRGINIA COTTON INDUSTRY STUDY GROUP.....	3
SURVEY OF OTHER COTTON-PRODUCING STATES.....	3
STATE & FEDERAL LAWS RELATING TO COTTON INDUSTRY.....	4
MEETINGS OF VIRGINIA COTTON INDUSTRY STUDY GROUP.....	4
BASIC ELEMENTS OF PROPOSED LEGISLATION.....	5
FINDINGS.....	5
RECOMMENDATIONS.....	6

## APPENDICES

- A - House Joint Resolution No. 604
- B - Participants in Virginia Cotton Industry Study Meetings
- C - North Carolina Cotton Gins, Cotton Warehouses & Cotton Merchants Law (House Bill 1010)



## EXECUTIVE SUMMARY

As requested by the 1999 Virginia General Assembly, the Virginia Department of Agriculture and Consumer Services (VDACS) conducted a study of the transporting, ginning, storing, and purchasing of cotton in Virginia to determine what additional safeguards are needed to ensure that the interests of the Commonwealth's cotton industry are protected throughout the process of growing, storing and marketing cotton. For the purposes of this study, transporting cotton was not addressed as an activity separate from ginning, storing and/or purchasing cotton.

Current state and federal laws relating to the cotton industry were reviewed to determine what protection is provided at present to the industry.

The other 16 cotton-producing states were requested to provide information about existing requirements relating to their cotton industries.

Two meetings of the Virginia Cotton Industry Group were held to review the ginning, storing and purchasing of cotton in the Commonwealth and to seek input from persons involved in growing, storing and marketing of this commodity regarding what additional safeguards are needed. Representatives of the Virginia Farm Bureau Federation, the Virginia Agribusiness Council, the Virginia Cotton Growers Association, the Virginia Cooperative Extension, and of individual cotton gins participated in these meetings.

### Key Findings

2. Many cotton-producing states, including Virginia, have limited or no specific requirements relating to the transporting, ginning, storing and purchasing of cotton.
3. There are requirements in the Virginia Commission Merchants law that relate to cotton. There are no state laws that relate specifically to the ginning, storing and purchasing of cotton.
4. Federal law only provides for a voluntary licensing and bonding of cotton warehouses, and some cotton warehouses in the Commonwealth have elected to be licensed under the federal law.

### Recommendations

1. Virginia should consider establishing a "cotton handlers" law that would provide a simplified approach to regulating the ginning, storing and purchasing of cotton that places no more than necessary restrictions on commerce and trade.

2. VDACS should continue to work with the participants in the Virginia Cotton Industry Study Group to develop a proposal that would address the industry's concerns for adequate safeguards in the least burdensome manner. The industry has expressed an interest in possibly seeking support for the draft proposal to be introduced in the 2000 Session of the Virginia General Assembly.

## BACKGROUND AND AUTHORITY

House Joint Resolution No. 604, as enacted by the 1999 Session of the Virginia General Assembly, directs the Virginia Department of Agriculture and Consumer Services (VDACS) to “. . . study the transporting, ginning, storing, and purchasing of cotton in Virginia”; “. . . seek the input of the Virginia Farm Bureau Federation, the Virginia Cotton Growers Association, Virginia Agribusiness Council, and other interested parties. . .”; and “. . . develop a plan to ensure that the interests of the Virginia cotton industry are protected throughout the process of growing, storing, and marketing cotton.” For the purposes of this study, the transporting of cotton was not treated as a separate activity but as a part of ginning, storing or purchasing cotton.

VDACS was instructed to report its findings and recommendations to the Governor and the 2000 Session of the General Assembly.

In the past twenty years cotton production has increased from a few hundred acres to more than a hundred thousand acres, making cotton a major agricultural commodity in Virginia. HJR No. 604 notes that the transporting, ginning, storing and purchasing of cotton differs significantly from other field crops. Most importantly, it appears that Virginia law does not provide sufficient statutory oversight of these activities.

## CREATION OF VIRGINIA COTTON INDUSTRY STUDY GROUP

This year, following the passage of HJR No. 604, the Commissioner of Agriculture and Consumer Services established the Virginia Cotton Industry Study Group based on the recommendations of the Virginia Farm Bureau Federation, the Virginia Agribusiness Council and the Virginia Cotton Growers Association. These organizations were invited to submit the names of persons with knowledge and expertise related to the cotton industry who would serve on the Virginia Cotton Industry Study Group. The Commissioner also welcomed the names of other interested parties to participate in the industry study. A list of the members of the study group is provided as Appendix B.

## SURVEY OF OTHER COTTON-PRODUCING STATES

Prior to calling a meeting of the Virginia Cotton Industry Study Group, VDACS contacted the departments of agriculture of the sixteen other cotton-producing states, requesting information about those states' requirements relating the ginning, storing and purchasing of cotton.

Fourteen states responded to the request. (The Cotton Industry Study Group considered the laws of the states that responded.) Based on the information provided during the survey, at least six states ( Alabama, Georgia,

New Mexico, Oklahoma, South Carolina and Texas) appeared to have laws that in one way or another specifically govern the handling of cotton.

It should be noted that, at the time of the survey, North Carolina, whose cotton gins and warehouses do business with Virginia growers, was considering cotton industry legislation. This legislation—House Bill 1010—was finally approved on August 5, 1999. A copy of this legislation which establishes a single act to regulate cotton gins, cotton warehouses, and cotton merchants is attached as Appendix C.

## STATE & FEDERAL LAWS RELATING TO COTTON INDUSTRY

From a review of the Code of Virginia and the Virginia Administrative Code, VDACS found no specific reference to cotton ginning, storing or purchasing outside of the Virginia Cotton Board law. The Cotton Board law is limited largely to establishing mechanisms for generating revenue to foster an expanded cotton industry in Virginia. It was determined that the Virginia Commission Merchants law, which was written originally to address tobacco and livestock marketing, does have some application to cotton marketing but it was determined that the bonding requirement is too low to provide any significant safeguards. In addition, the preferable approach would be to address all handlers of cotton in a separate, single law.

VDACS identified the United States Warehouse Act (USWA) as the only federal law that would relate to the concern for industry safeguards. The USWA relates specifically to the storage of producers' cotton. It was found that some operations in the state that include cotton ginning and warehousing are licensed under this federal law. However, since the USWA is a voluntary program, it appears that it would be fairly easy for an operation to withdraw from licensing if it decided not to comply.

## MEETINGS OF VIRGINIA COTTON INDUSTRY STUDY GROUP

The first meeting of the Virginia Cotton Industry Study Group was held on June 21, 1999. This meeting was devoted to a review of the ginning, storing, and purchasing of cotton and a discussion of the extent to which Virginia and federal laws govern these activities. There was also a limited review of what requirements other cotton producing states have put in place. During that meeting the group identified issues that should be considered in drafting legislation. Following the June meeting, VDACS drafted language relating to the ginning, storing and purchasing of cotton that would involve the creation of two new laws and the amendment of the Virginia Commission Merchants Law. These proposals were shared with the study group for their review.

The group met again on September 23, 1999 to review and discuss the legislative proposals prepared by VDACS. At the end of the September

meeting, VDACS advised the group that VDACS would continue to work with them to reformulate and refine the draft legislative proposals into a single proposed law that would address in a more simplified way the needs of the industry. VDACS agreed to provide a redraft of its proposals to the study group and would call a meeting of the study group to seek additional input.

## BASIC ELEMENTS OF ANTICIPATED DRAFT LEGISLATION

The study group had not completed its work on a draft legislative proposal at the time this report was written. However, it is anticipated that the product of this work will be a single cotton handlers law that addresses the need for licensing and an adequate bond (while avoiding duplicative bonding requirements) for persons or entities that handle cotton as ginners, storers, and/or purchasers. It is anticipated that warehouses that choose not to be licensed and bonded under the U.S. Warehouse Act may be required to be licensed and bonded under state law. The study group is expected to consider other issues such as the weighing of cotton modules, the grower's consent to sale, the keeping of records, etc. in developing a final draft proposal.

## FINDINGS

1. Most cotton-producing states share Virginia's situation of having no specific statutory requirements governing the ginning, storing and purchasing of cotton.
2. The North Carolina legislature this year enacted House Bill 1010 which establishes in a single law new requirements for cotton gins, cotton warehouses and cotton merchants.
3. Virginia's Commission Merchants law has some limited application to the purchasing of cotton, but it appears that a preferable and more effective approach would be to address handlers of cotton involved in ginning, storing and/or purchasing cotton in a separate, single law.
4. The United States Warehouse Act provides a fairly comprehensive warehouse licensing program for agricultural commodities including cotton, but it appears to be fairly easy for a warehouse to withdraw from this voluntary program.
5. In Virginia a person or single entity is sometimes involved in all aspects of handling cotton (transporting, ginning, storing and purchasing) or may only be involved in just one or two of these activities.
6. The cotton industry appears to support the enactment of legislation that would safeguard the industry.

## RECOMMENDATIONS

The Virginia Department of Agriculture and Consumer Services recommends that consideration be given to establishing basic safeguards in the Code of Virginia to protect the interests of the cotton industry in ginning, storing and purchasing cotton.

VDACS recommends that proposals to provide greater industry protection focus on establishing basic licensing, bonding and record keeping requirements for persons or entities that handle cotton. These handlers would include persons or entities engaged in ginning, storing and/or purchasing cotton.

Because of cancellation of scheduled meetings created by Hurricanes Dennis and Floyd, the work of the Virginia Cotton Industry Study Group in preparing draft legislation to establish basic industry safeguards was not completed at the time that this report was prepared. However, VDACS is continuing its collaboration with the study group to redraft the initial legislative proposals based on the input of the industry representatives and to help prepare a final draft that the industry may support for introduction in the 2000 Session of the General Assembly. It is hoped that through continued work, the group will develop a consensus of what new requirements of law are needed to safeguard the industry's interests.

(APPENDIX A)

**HOUSE JOINT RESOLUTION NO. 604**

*Requesting the Department of Agriculture and Consumer Services to study the transporting, ginning, storing, and purchasing of cotton in Virginia.*

Agreed to by the House of Delegates, February 5, 1999

Agreed to by the Senate, February 18, 1999

WHEREAS, in the past decade cotton has become a significant field crop in Virginia, with over 100,000 acres planted and over \$50 million in cash receipts in 1997; and

WHEREAS, the transporting, ginning, storing, and purchasing of cotton differs significantly from the way other crops are produced, stored, and marketed in Virginia; and

WHEREAS, little regulatory oversight exists in Virginia for any of the aforementioned activities; and

WHEREAS, most other cotton-producing states have some level of regulatory oversight for such activities; and

WHEREAS, the interests of cotton growers in Virginia may not be adequately protected without such regulatory oversight; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Agriculture and Consumer Services be requested to study the transporting, ginning, storing, and purchasing of cotton in Virginia. The Department shall seek the input of the Virginia Farm Bureau Federation, the Virginia Cotton Growers Association, Virginia Agribusiness Council, and other interested parties identified by the Commissioner of Agriculture and Consumer Services, and shall develop a plan to ensure that the interests of the Virginia cotton industry are protected throughout the process of growing, storing, and marketing cotton.

All agencies of the Commonwealth shall provide assistance to the Department for this study, upon request.

The Department shall complete its work in time to submit its findings and recommendations to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

---

(APPENDIX B)

**PARTICIPANTS IN VIRGINIA COTTON INDUSTRY STUDY MEETINGS**

**Virginia Agribusiness Council**

W. Lyle Pugh, Sr., L & M Farms, Chesapeake  
Tom Alphin, Commonwealth Gin, Windsor  
Donna Pugh Johnson, Richmond

**Virginia Cotton Growers Association, Inc.**

Larry Fowler, Newsoms  
Alvin Blaha, Petersburg

**Virginia Farm Bureau Federation**

Cecil Byrum, Windsor  
Spencer Neale, Richmond

**Other Interested Parties**

Lance V. Everett, Carolina Cotton Growers Cooperative, Stony Creek  
Morris Glover, Suffolk Cotton Gin, Suffolk  
Clarence Riddick, Suffolk Cotton Gin, Suffolk  
Glenn Hawkins, Hawkins Gin, Emporia  
Mark Hodges, Hawkins Gin, Emporia

**Virginia Cooperative Extension – Virginia Tech**

James C. Maitland, Cotton Specialist, Blackstone

**Virginia Department of Agriculture and Consumer Services**

Donald G. Blankenship, Deputy Commissioner  
Alan Rogers, Division of Consumer Protection  
Roy Seward, Office of Policy, Planning & Research  
L. H. Redford, Office of Policy, Planning & Research  
Gail Moody-Milteer, Division of Marketing

(APPENDIX C)

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

SESSION LAW 1999-412  
HOUSE BILL 1010

AN ACT TO REGULATE COTTON GINS, COTTON WAREHOUSES, AND  
COTTON MERCHANTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by  
adding a new Article to read:

"ARTICLE 38B.

"Cotton Gins, Warehouses, Merchants.

"§ 106-451.40. Definitions.

- (1) "Cotton gin" means any cotton gin.
- (2) "Cotton merchant" means any person who buys cotton from the producer for the purpose of resale, or acts as a broker or agent for the producer in arranging the sale of cotton. It does not include a person who buys cotton for his own use.
- (3) "Cotton warehouse" means any enclosure in which producer-owned cotton is stored or held for longer than 48 hours.

"§ 106-451.41. Registration required.

No person shall engage in business as a cotton gin, cotton warehouse, or cotton merchant without first having registered with the Commissioner of Agriculture. This shall include a cotton marketing cooperative or association that performs any of these functions.

"§ 106-451.42. Application; bond; display of certificate of registration.

- (a) A cotton gin, cotton warehouse, cotton merchant, or cotton marketing cooperative or association shall, on or before July 1 of each year, file an application for registration on a form provided by the Commissioner of Agriculture. A fee of twenty-five dollars (\$25.00) shall be submitted with each application.
- (b) An application for registration as a cotton warehouse shall also be accompanied by a bond in the amount of three hundred thousand dollars (\$300,000) issued by a company authorized to issue surety bonds in North Carolina and shall be conditioned upon fulfillment of

contractual obligations related to the purchase or storage of cotton. A bond shall not be required for a person who is licensed and bonded under the U.S. Warehouse Act.

(c) The registration certificate shall be conspicuously displayed at the place of business.

**“§ 106-451.43. Records; receipts; other duties; denial of registration.**

(a) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall keep records of producer-owned cotton transactions for seven years, showing the producer's name, bale number, and bale weight.

(b) Cotton gins shall, within 48 hours of ginning, make available to the person from whom cotton was received, a paper document showing the bale number and weight for each bale of cotton ginned.

(c) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall not market, obligate for sale, or otherwise dispose of producer-owned cotton without written consent from the producer.

(d) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall assist the Commissioner of Agriculture or his agents in inspecting records of producer-owned cotton transactions. Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall assist the Commissioner or his agents in weighing or reweighing a representative sample of cotton bales stored or held at their premises, using sampling procedures approved by the Board of Agriculture.

(e) Violation of any of the requirements of this section shall be grounds for denial, suspension, or revocation of registration under G.S. 106-451.41.”

**§ 106-451.44. Operation without registration unlawful; injunction.**

Engaging in business as a cotton gin, cotton warehouse, or cotton merchant without being registered under G.S. 106-451.41 is punishable as a Class 2 misdemeanor. In addition, the Commissioner of Agriculture may apply to any court of competent jurisdiction to obtain injunctive relief to prevent violations of this act.”

Section 2. This act becomes effective January 1, 2000. In the General Assembly read three times and ratified this the 20th day of July, 1999.

s/ Dennis A. Wicker President of the Senate  
s/ James B. Black Speaker of the House of Representatives  
s/ James B. Hunt, Jr. Governor  
Approved 10:01 p.m. this 5th day of August, 1999