

ARKANSAS EGG MARKETING ACT

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Effective Dates. Acts 1969, No. 220, § 22: July 1, 1969.
Acts 1970 (Ex.Sess.), No.12, § 4: Mar. 13, 1970. Emergency clause provided: "It is hereby found and determined by the General Assembly that clarification of Act 220 of 1969 is necessary in order to provide adequate procedures for the issuance of shell egg processing plants and egg candling rooms, and to establish reasonable and adequate fees for the maintenance and

operation of the egg inspection and grading program fees to support the egg grading and inspection program of the Livestock and Poultry Commission, and that the immediate passage of this act is necessary to accomplish these purposes. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

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20-58-201. Title.

This subchapter shall be known and cited as "The Arkansas Egg Marketing Act of 1969".

History. Acts 1969, No. 220, § 1; A.S.A. 1947, § 82-1301.

Amendment

20-58-202. Definitions.

As used in this subchapter, unless the context otherwise requires:

- (1) "Ambient Temperature" means the atmospheric temperature surrounding or encircling shell eggs;
- (2) "Candle" means to determine the interior quality based on the use of a candling light as defined in the United States standards;
- (3) "Case" means a container of thirty (30) dozen shell eggs;
- (4) "Consumer" means any person using eggs for food and shall include restaurants, hotels, cafeterias, hospitals, state institutions, and any other establishment serving food to be consumed or produced on the premises but shall not include the armed forces or any other federal agency or institution;
- (5) "Container" includes any carton, basket, case, cart, pallet, or other receptacle:

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(A) “Immediate container” means any consumer package or other container in which shell eggs, not consumer-packaged, are packed; and

(b) “Shipping Container” means any container used in packing shell eggs packaged in an immediate container.

(6) “Dealer-wholesaler” means a person engaged in the business of buying eggs from producers or other persons on his own account and selling or transferring eggs to other dealer-wholesalers, processors, retailers, or other persons and consumers. A dealer-wholesaler further means a person engaged in producing eggs from his own flock and disposing of any portion of this production on a graded basis;

(7) “Denatured” means rendering unfit for human food by treatment or the addition of a foreign substance as approved by the Administrator of the United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS);

(8) “The Egg Products Inspection Act” means Public Law 91-597, Egg Products Inspection Act, dated December 29, 1970;

(9) “Eggs” means the products of the domesticated chicken hen and any other eggs offered for sale for human consumption;

(10) “Inedible and unfit for human food” means eggs described as black rots, white rots, mixed rots or addled eggs, sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, eggs containing embryo checks at or beyond the blood ring stage, and any eggs that are adulterated as that term is defined in the Arkansas Food, Drug, and Cosmetic Act, § 20-56-201 et seq.;

(11) “Packer” means any person who grades, sizes, candles, and packs eggs for purposes of resale;

(12) “Person” means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not;

(13) “Possession” means the fact of possession by any person engaged in the sale of a commodity is prima facie evidence that the commodity is for sale;

(14) “Processor” means a person who operates a plant for the purpose of breaking eggs for freezing, drying, or commercial food manufacturing;

(15) “Retailer” means any person who sells eggs to a consumer; and

(16) “Sell” means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

History. Act 1969, No. 220, § 2; 1985, No. 301, § 1; A.S.A. 1947, § 82-1302; Acts 1993, No. 115, § 1.

Amendments. The 1993 amendment renumbered the definitions alphabetically; substituted “United States” for “U.S.” in (2); substituted “approved by the Administrator of the United States Department of

Agriculture (USDA), Agricultural Marketing service (AMS); for “lampblack, mothylene dye, powdered charcoal, or kerosene in addition to the crushing of the egg shells” in (7); inserted “Arkansas” in (10); and made minor stylistic changes in (15) and (16).

Amendment.

20-58-203. Applicability.

Arkansas Code 20-58-203 is amended to read as follows:

This subchapter shall be applicable to all retailers of eggs except that retailer shall be permitted to sell eggs, when the eggs are purchased directly from producers who own less than two

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hundred (200) hens provided the following requirements are met:

- (1) Eggs are washed and clean;
- (2) Eggs are prepackaged and identified as ungraded with the name and address of the producer;
- (3) Used cartons are not used unless all brand markings and other identification is obliterated; and
- (4) Eggs are refrigerated and maintained at a temperature of forty-five degrees Fahrenheit (45°F) or below.

History. Acts 1969, No. 220, § 3; A.S.A. 1947, § 82-1303.

Amendments. The 1997 amendment rewrote the section.

20-58-204. Penalties.

(a) Any person, firm, or corporation violating any of the provisions of this subchapter or regulations of the Arkansas Livestock and Poultry Commission shall be guilty of a misdemeanor and shall upon conviction:

- (1) For the first offense be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100);
- (2) For the second offense be fined not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250);
- (3) For the third offense be fined not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).

(b) In addition to fines in the discretion of the court;

- (1) For the first offense, his permit may be suspended not more than thirty (30) days;
- (2) For the second offense, his permit may be suspended not more than sixty (60) days; and
- (3) For the third offense or any subsequent offense, his grading and packing permit may be revoked.

(c) Public notice shall be made upon conviction of violation under this subchapter.

History. Acts 1969, No. 220, § 19; A.S.A. 1947, § 82-1322.

20-58-205. Employees of Arkansas Livestock and Poultry Commission -- Powers and duties.

All duties and functions required to be performed by the Arkansas Livestock and Poultry Commission under the provisions of this subchapter shall be performed by the commission or its authorized employees.

History. Acts 1969, No. 220, § 16; A.S.A. 1947, § 82-1319.

20-58-206. Arkansas Livestock and Poultry Commission - Establishment of standards.

(a) The Arkansas Livestock and Poultry Commission shall establish standards for the grading, classification, and marking of shell eggs bought and sold by any person, firm, or corporation in the State of Arkansas.

(b) The standards shall, on the date of the sale to the consumer, conform to the minimum standards promulgated by the U.S. Department of Agriculture as defined in the "United States

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Standards, Grades and Weight Classes for Shell Eggs”, authorized under 7 U.S.C. § 1624, effective July 11, 1952, and amendments thereto.

(c) The standards of quality of the U.S. Department of Agriculture are adopted as the standards of quality for the enforcement of this subchapter. Any egg described by the U.S. Department of Agriculture as being inedible shall be deemed inedible under the provisions of this subchapter.

History. Acts 1969, No. 220, § § 7, 23; A.S.A. 1947, § § 82-1307, 82-1308

Amendment.

20-58-207. Prohibited Acts.

Arkansas Code 20-58-207 is amended to read as follows:

(a) No person, firm, or corporation shall sell, traffic in, or deliver to the retail or consuming trade any eggs unfit for human food.

(b) It shall be unlawful to:

(1) Prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, sell in bulk or containers, or advertise by sign, placard, or otherwise any eggs for human consumption which are mislabeled, deceptive, that are or contain inedible eggs not denatured, or eggs that have been incubated;

(2) Use descriptive terminology as to eggs that have not been graded and sized according to the standards set forth by the Arkansas Livestock and Poultry Commission;

(3) Use descriptive terminology such as ‘fresh’, ‘farm’, ‘country’, etc., or to represent the same to be ‘fresh’, any eggs excepting those eggs that meet the minimum requirements of Grade A or higher according to the standards set forth by the Arkansas Livestock and Poultry Commission.

(c) No eggs shall be sold for resale to consumers below U.S. Consumer Grade B.

(d) All restaurants, hotels, hospitals, and any other eating establishments who knowingly purchase, sell, serve, or use in food preparation, eggs below U.S. Consumer Grade B quality will be in violation of this subchapter.

History. Acts 1969, No. 220, § § 4, 14, 18; A.S.A. 1947, § § 82-1304, 82-1315, 82-1321.

Amendment. The 1997 amendment rewrote the section.

20-58-208. Display of grade and size required.

(a) All eggs advertised or displayed for sale for human food shall designate the correct grade and size. The designation shall also appear on the exterior of the container in which the eggs are offered for sale.

(b) Restaurants, hotels, and other eating places using eggs below “A” quality shall be required to display a placard of heavy cardboard of not less than eight by eleven inches (8" x 11"), stating the quality and weight of the eggs used by the establishment in a location where it can easily be seen by the customers or, in lieu thereof, place this information on the menu.

History. Acts 1969, No. 220, § 8; 1985, No. 301, § 2; A.S.A. 1947, § 82-1309.

20-58-209. Packing and grading permit.

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(a) All packing and grading permits shall be conspicuously posted in the place of business to which they apply.

(b) The permit year shall be twelve (12) months or any fraction thereof beginning July 1 and ending June 30 of each year.

(c) No permit shall be transferable, but it may be moved from one (1) place to another with the consent of the Arkansas Livestock and Poultry Commission.

(d) No person shall operate a shell egg processing plant and egg candling room or any egg breaking plant before the plant or room has been approved by the Arkansas Livestock and Poultry Commission or its authorized agent and a permit issued.

History. Acts 1969, No. 220, § 12; 1970 (Ex. Sess.), No. 12, § 1; A.S.A. 1947, § 82-1317.

Amendment

20-58-210. Refrigeration of eggs - Temperature and labeling requirements.

(a) All shell eggs packed in containers for the purpose of resale to consumers shall be stored and transported under refrigeration at an ambient temperature no greater than forty-five degrees Fahrenheit (45°F) or seven and two-tenths degrees Celsius (7.2°C).

(b) All shell eggs that are packed into containers for the purpose of resale to the consumer shall be labeled with the following statement: "Keep refrigerated at or below 45 degrees Fahrenheit".

(c) Every person, firm, or corporation selling eggs for the purpose of resale to the consumer must store and transport shell eggs under refrigeration at an ambient temperature no greater than forty-five degrees Fahrenheit (45°F) or seven and two-tenths degrees Celsius (7.2°C), and all containers of eggs must be labeled with the following statement: "Keep refrigerated at or below 45 degrees Fahrenheit". This includes retailers, institutional users, dealer-wholesalers, food handlers, transportation firms, or any person who delivers to the retail or consuming trade.

(d) Packers shall not be responsible for the interior quality of eggs unless all recommended handling procedures in this section are followed by all parties after the sale of the eggs by the packer.

History. Acts 1969, No. 220, § 15; A.S.A. 1947, § 82-1316; Acts 1993, No. 115, § 2 .

Amendments. The 1993 amendment rewrote the section.

20-58-211. Sales to retailers or manufacturers.

(a) Every person, firm, or corporation selling eggs to a retailer or manufacturer shall furnish an invoice showing the size and quality of the eggs according to the standards prescribed by this subchapter together with the name and address of the person by whom the eggs were sold.

(b) This invoice shall be retained for two (2) years.

History. Acts 1969, No. 220, § 6; A.S.A. 1947, § 82-1306.

20-58-212. Retail sales.

(a) Any and all eggs offered for sale at retail shall be prepackaged.

(b) All eggs offered for sale at retail shall be plainly marked as to grade and size with letters not less than three-eighths inch (3/8") in height.

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(c) Each container of eggs offered for sale at retail shall bear on the exterior of the container the following:

- (1) The identity of the packer must be by registry of United States Department of Agriculture plant number or by state permit number or name of packer;
- (2) The date the eggs were packed;
- (3) The correct grade and size of the eggs.

History. Acts 1969, No. 220, §§ 9-11;
A.S.A. 1947, §§ 82-1310 - 82-1312.

20-58-213. Possessor of eggs deemed owner - Exceptions.

All eggs shall be considered the property of the person in whose possession they are found except those in the custody of common carriers or a public warehouse where the owner is identified by record.

History. Acts 1969, No. 220, §5; A.S.A.
1947, § 82-1305.

20-58-214. Enforcement.

(a)(1) The Arkansas Livestock and Poultry Commission shall enforce the provisions of this subchapter and is authorized to make and promulgate such regulations as may be necessary thereto.

(2) The regulations shall be publicized and become effective ninety (90) days after adoption.

(b)(1) The Arkansas Livestock and Poultry Commission and its authorized employees or agents are authorized to enter any store, vehicle, market, or any other business or place where eggs are bought, stored, sold, offered for sale, or processed. The commission is authorized to make such inspections as needed of eggs to determine if the grades of the eggs conform to grades as labeled on the exterior of the container.

(2) If the inspection determines that the eggs in the container do not conform to the grade as labeled on the exterior of the container, the Arkansas Livestock and Poultry Commission or its employees or agents are authorized to examine the invoices and such other records as are needed to determine the cause and place of the violation of the regulation of this subchapter.

(c) The Arkansas Livestock and Poultry Commission and its authorized employees shall have the power to stop sale of and impound for evidence any containers of eggs offered for sale which are in conflict with any provisions of this subchapter.

History. Acts 1969, No. 220, §17; A.S.A.
1947, § 82-1320.

20-58-215. Inspection fees.

(a) For the purpose of financing the administration and enforcement of this subchapter, the State of Arkansas, through the Arkansas Livestock and Poultry Commission, shall collect an inspection fee from the processor, packer, or dealer-wholesaler, or from any of them.

(b) The inspection fee and annual permit fee will be set by the Arkansas Livestock and Poultry Commission after review and consultation with the Arkansas Poultry Federation for all shell eggs and egg products processed or sold in the State of Arkansas.

(c) All fees, interest, penalties, or costs collected by the Arkansas Livestock and Poultry

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Commission as authorized in this section shall be deposited in the State Treasury within thirty (30) days of collection thereof.

(d) Upon receipt of the funds, the State Treasurer shall, after deducting therefrom the collection charge authorized by law, credit the net amount thereof to the credit of the fund to be known as the "Poultry and Egg Grading Fund", to be used for consumer merchandising, consumer education, maintenance, operation, and other expenses of all functions imposed by the provisions of this subchapter.

History. Acts 1969, No. 220, §13; 1970 (Ex. Sess.), No.12, §2; 1985, No. 301, §3; A.S.A. 1947, § 82-1314.

20-58-216. Audits.

(a) Annual audits of all permit holders, including out-of-state permit holders, will be performed by the commission to insure proper reporting of egg inspection fees.

(b)(1) Travel expenses incurred in conducting out-of-state audits are to be reimbursed to the commission by out-of-state permit holders.

(2) The State of Arkansas' out-of-state daily allowance for meals and lodging will be the maximum amount reimbursable, plus travel expenses to and from locations of permit holders.

History. Acts 1969, No. 220, §24, as added by Acts 1985, No. 301, §4; A.S.A. 1947, §82-1323.