

AGRICULTURE CODE

TITLE 5. PRODUCTION, PROCESSING, AND SALE OF HORTICULTURAL PRODUCTS

SUBTITLE D. HANDLING AND MARKETING OF HORTICULTURAL PRODUCTS

CHAPTER 102. HANDLING AND MARKETING OF CITRUS FRUIT

SUBCHAPTER B. TRANSPORTATION OF CITRUS FRUIT

Sec. 102.101. IDENTIFICATION SIGNS. (a) A motor vehicle, including a truck or tractor, that hauls citrus fruit in bulk or in open containers for commercial purposes on the highways of this state must be identified by signs showing:

- (1) the name of the person who owns the vehicle; or
- (2) the name of the person who leases or operates the vehicle.

(b) If a person licensed under Subchapter A of this chapter is the owner or operator of the vehicle, each identification sign must also show "Licensed Citrus Fruit Dealer" under the name of the person.

(c) The lettering on each identification sign must be at least three inches in height.

(d) An identification sign must appear on both sides of the vehicle or on both the front and the rear and must be affixed permanently or in another manner in which it may not easily be removed. If both a tractor and a trailer or two units are used in hauling the citrus fruit, both the tractor and the trailer or both units must be labeled with identification signs in the manner required by this subsection.

Acts 1981, 67th Leg., p. 1266, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.102. CERTIFICATE. A person who operates a motor vehicle, including a truck or tractor, or a motor vehicle and a trailer for hauling citrus fruit in bulk or in open containers for commercial purposes on the highways of this state shall, when operating the vehicle, have on his or her person a certificate or other document showing:

- (1) the approximate amount of citrus fruit being hauled;

- (2) the name of the owner of the citrus fruit; and
- (3) the origin of the citrus fruit.

Acts 1981, 67th Leg., p. 1266, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.103. EXCEPTION. This subchapter does not apply to citrus fruit being hauled from the farm or grove to market or the place of first processing by the producer of the citrus fruit operating the producer's vehicle or by an employee of the producer operating a vehicle owned by the producer.

Acts 1981, 67th Leg., p. 1266, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.104. PENALTY. (a) A person commits an offense if the person:

- (1) operates a motor vehicle or a motor vehicle and trailer not identified in accordance with Section 102.101 of this code; or

- (2) operates a motor vehicle or motor vehicle and trailer without a certificate or document required by Section 102.102 of this code.

(b) An offense under this section is a Class B misdemeanor.  
Acts 1981, 67th Leg., p. 1266, ch. 388, Sec. 1, eff. Sept. 1, 1981.  
Amended by Acts 1989, 71st Leg., ch. 230, Sec. 118, eff. Sept. 1, 1989.

Sec. 102.1045. CIVIL PENALTY; INJUNCTION. (a) A person who violates this subchapter or a rule adopted under this subchapter is liable to the state for a civil penalty not to exceed \$500 for each violation. Each day a violation continues may be considered a separate violation for purposes of a civil penalty assessment.

(b) On request of the department, the attorney general or the county attorney or district attorney of the county in which the violation is alleged to have occurred shall file suit to collect the penalty.

(c) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the General Revenue Fund. All civil penalties recovered in suits first instituted by a

local government or governments under this section shall be equally divided between the State of Texas and the local government or governments with 50 percent of the recovery to be paid to the General Revenue Fund and the other 50 percent equally to the local government or governments first instituting the suit.

(d) The department is entitled to appropriate injunctive relief to prevent or abate a violation of this subchapter or a rule adopted under this subchapter. On request of the department, the attorney general or the county or district attorney of the county in which the alleged violation is threatened or is occurring shall file suit for the injunctive relief. Venue is in the county in which the alleged violation is threatened or is occurring.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 119, eff. Sept. 1, 1989.

#### SUBCHAPTER C. CITRUS MARKETING AGREEMENTS AND LICENSES

Sec. 102.151. POLICY. The unreasonable waste and inefficient use of the citrus resources, caused by the marketing within this state of greater quantities of fresh citrus fruit than are reasonably necessary to supply the demands of the market, are not in the public interest. The difficulty inherent in an attempt of individuals to correlate within a reasonable degree the citrus production to current demand creates chaotic economic conditions in the citrus areas of the state of such severity as to imperil the ability of citrus producers to contribute in appropriate amounts to the support of ordinary governmental and educational functions, thus tending to increase the tax burden of other taxpayers for the same purposes, and renders it impossible for producers to be reasonably assured of an adequate standard of living for themselves and their families. In the interest of the public welfare and general prosperity of the state, the unreasonable waste and inefficient use of citrus resources involved in the marketing of citrus fruit in this state should be eliminated, while at the same time preserving to citrus producers in the area covered by this subchapter an equality of opportunity.

Acts 1981, 67th Leg., p. 1267, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.152. DEFINITIONS. In this subchapter:

(1) "Citrus fruit" means grapefruit, oranges, and tangerines.

(2) "Handler" means a person who packs or ships citrus fruit or causes citrus fruit to be packed or shipped in intrastate commerce.

(3) "Intrastate commerce" means all commerce other than that which is in interstate commerce or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce.

(4) "Person" means an individual, corporation, or association.

(5) "Producer" means a person who is engaged in the production of citrus fruit in this state for commercial purposes or who is a substantial stockholder in a corporation engaged in the production of citrus fruit in this state for commercial purposes.

(6) "Ship" means convey or cause to be conveyed in intrastate commerce by rail, boat, truck, or other means, not including parcel post or express, whether as owner, agent, or otherwise.

(7) "Shipment" means the loading into a car or other conveyance for transportation in intrastate commerce.

(8) "Variety" means the following classifications or groups of citrus fruit:

(A) oranges:

(i) early season oranges; and

(ii) valencias, including Lou Gim Gongs;

(B) grapefruit:

(i) Marsh and other seedless grapefruits, except pinks;

(ii) Duncan and other seeded grapefruits, except pinks;

(iii) seeded pinks; and

(iv) seedless pinks; and

(C) tangerines and temple oranges grouped as one variety.

Acts 1981, 67th Leg., p. 1267, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.153. LIMITED APPLICATION OF SUBCHAPTER. This subchapter applies only to areas of three citrus fruit producing counties whose boundaries are contiguous and whose aggregate population according to the last preceding federal census is not less than 165,043. This subchapter does not apply to citrus fruit grown in other areas of this state.

Acts 1981, 67th Leg., p. 1268, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.154. MARKETING AGREEMENTS AND LICENSES. In accordance with this subchapter, the department may execute marketing agreements and issue licenses to persons engaged in intrastate commerce transactions in the marketing, processing, packing, shipping, handling, or distributing of citrus fruit.

Acts 1981, 67th Leg., p. 1268, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.155. HEARING. (a) On its own motion or on application of a producer or handler of citrus fruit, the department may conduct a hearing on the execution of a marketing agreement or on the issuance of a license if the department has reason to believe that the marketing agreement or license will tend to effectuate the policy of this subchapter.

(b) The department shall conduct a hearing under this section in the area subject to this subchapter and shall within a reasonable time make the evidence and exhibits offered at the hearing available at a central point to any interested party. The department shall produce a transcript of the hearing and make it available to any interested party.

Acts 1981, 67th Leg., p. 1268, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.156. FINDINGS. (a) Following a hearing, the department may execute a marketing agreement or issue a license only if it finds that:

(1) the supply of a citrus fruit available for marketing exceeds or is likely to exceed the demand for the fruit at prices that will provide a reasonable return to representative

producers of that fruit;

(2) the return to producers of the citrus fruit will tend to be increased through the operation of the marketing plan;

(3) the marketing plan may be operated without permitting unreasonable profits to producers of the citrus fruit and without unreasonably enhancing prices of the citrus fruit to consumers; and

(4) the marketing plan will tend to advance public welfare and conserve the agricultural wealth of the state by preventing threatened economic or agricultural waste and will tend to prevent chaotic marketing of the citrus fruit.

(b) The findings of the department, and the administration of any marketing agreement or license, shall be based on relevant considerations, including:

(1) the quantity of the several grades, varieties, and qualities of the citrus fruit under consideration and available for distribution to consumers in the marketing season during which the program is to be effective;

(2) the quantity of the several grades, varieties, and qualities of the citrus fruit required by consumers during the marketing season during which the program is to be effective;

(3) the cost of production of the citrus fruit;

(4) the general purchasing power of consumers of the citrus fruits;

(5) the general level of prices of commodities that farmers buy; and

(6) the general level of prices of other commodities that compete with or are used as substitutes for the citrus fruit.

Acts 1981, 67th Leg., p. 1268, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.157. TERMS OF AGREEMENT OR LICENSE. (a) Any marketing agreement executed or license issued may:

(1) limit or provide a method for limiting the total quantity of any grade, variety, size, or quality of citrus fruit that may be produced during one or more specified periods and marketed in or transported to a market in intrastate commerce;

(2) allot or provide a method for allotting the amount

of citrus fruit or any grade, variety, size, or quality of citrus fruit that each handler may market in intrastate commerce;

(3) determine or provide a method for determining the existence and extent of a surplus of a citrus fruit or of any grade, variety, size, or quality of a citrus fruit, provide for the control and disposition of that surplus in a manner that does not burden or obstruct interstate or foreign commerce, and equalize the burden of a surplus elimination or control among the producers and handlers of the citrus fruit;

(4) provide for administrative committees under Section 102.158 of this code; and

(5) provide other terms or conditions incidental to and consistent with this section.

(b) If the marketing agreement or license allots or provides a method for allotting the amount of a citrus fruit that a handler may handle, the marketing agreement or license must:

(1) be under a uniform rule based on one or both of the following:

(A) the amount of the citrus fruit or grade, variety, size, or quality of the citrus fruit that each handler has available for current shipment; and

(B) the amount shipped by each handler in a prior representative period, as determined by the department; and

(2) equitably apportion among all the handlers the total quantity of the citrus fruit or any grade, variety, size, or quality of the citrus fruit to be marketed in or transported to markets in intrastate commerce.

(c) A marketing agreement or license may include one or more of the terms and conditions under Subsection (a) of this section, but may not include others.

Acts 1981, 67th Leg., p. 1269, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.158. ADMINISTRATIVE COMMITTEE. (a) A marketing agreement or license may authorize the department to select and define the powers and duties of one or more administrative committees to administer the program.

(b) The department may authorize an administrative

committee to:

- (1) administer the license in accordance with its terms and provisions;
- (2) adopt rules to effectuate the terms and provisions of the license;
- (3) receive, investigate, and report to the department complaints of violations of the license;
- (4) recommend to the department amendments to the license; and
- (5) collect assessments in accordance with Section [102.159](#) of this code.

(c) The department may require an administrative committee to file reports of the activities and proceedings of the committee. Acts 1981, 67th Leg., p. 1269, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.159. ASSESSMENT. (a) If an administrative committee is authorized to collect an assessment, for each marketing season or year in which the marketing agreement or license is effective the committee shall collect from each handler an assessment representing the handler's pro rata share of the estimated expenses incurred by the department in conducting hearings and incurred by the administrative committee in administering the agreement or license during the marketing season or year. The department shall estimate those expenses after each administrative committee submits to the department a proposed budget.

(b) An assessment levied under this section is a personal debt of each person assessed and is immediately due and payable to the administrative committee charged with collection. With the approval of the department, an administrative committee may sue in its own name in a court of competent jurisdiction for the collection of an assessment.

(c) In accordance with the rules of the department, each administrative committee charged with the collection of assessments shall collect, report, and pay monthly to the department the amount of the assessments that the department determines will be necessary to defray the department's cost of



administering the marketing agreement or license during the subsequent month.

(d) The department shall submit to each administrative committee charged with collecting assessments quarterly statements reporting the receipts and expenditures during the quarter in connection with the administration of the appropriate marketing agreement or license.

(e) An administrative committee may expend assessments for the purposes set forth in the marketing agreement or license under which the assessment is collected. The committee shall keep a full and complete record of those expenditures and the department is entitled to access to that record at any time.

(f) An administrative committee shall retain custody of assessments that are not paid to the department or expended under Subsection (e) of this section. At the close of the marketing season or year for which an assessment is collected, the committee shall return to each handler a pro rata share of assessments that are not paid to the department or expended by the committee.

Acts 1981, 67th Leg., p. 1270, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.160. APPROVAL BY PRODUCERS AND HANDLERS. (a) A license may not be issued until:

(1) assented to in writing by:

(A) 51 percent of the total number of handlers of the citrus fruit; or

(B) the handlers of at least 51 percent of the total volume of the citrus fruit covered by the license; and

(2) the department determines that the issuance of the license is approved by:

(A) 66-2/3 percent of the producers who, during a representative period determined by the department, have been engaged in the production of the citrus fruit in commercial quantities in the area covered by the license; or

(B) the producers who, during the representative period, produced for market at least 66-2/3 percent of the volume of the citrus fruit produced for market in the area covered by the license.

(b) In determining the representative period under Subsection (a)(2) of this section, the department may select the crop season prior to the holding of a hearing on the issuance of the license or any other period that the department determines to be representative.

(c) In determining the approval of producers under Subsection (a)(2) of this section, the department shall determine the approval or disapproval of the producers in respect to the issuance of any license or order or any term or condition of a license or order. The department shall consider the approval or disapproval of any cooperative association of producers that is engaged in marketing the citrus fruit for producers or is rendering service to or advancing the interest of those producers as the approval or disapproval of the producers who are members of, stockholders in, or under contract with the association. Approval by an association may be executed in the name of the association and is not required to set forth the names of the producers represented by the association.

Acts 1981, 67th Leg., p. 1270, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.161. UNIFORM LICENSES. If a license is issued under this subchapter, the department shall issue an identical license to each handler, processor, or distributor of the same class.

Acts 1981, 67th Leg., p. 1271, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.162. FEES. Each person applying for a marketing agreement or license shall submit to the department a filing fee, as provided by department rule, and a deposit in an amount that the department considers sufficient and necessary to defray the expenses of preparing and making effective the marketing agreement or license.

Acts 1981, 67th Leg., p. 1271, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1995, 74th Leg., ch. 419, Sec. 2.49, eff. Sept. 1, 1995.

Sec. 102.163. AMENDMENT OF MARKETING AGREEMENT OR LICENSE.

(a) If the department has reason to believe that an amendment of a marketing agreement or license is necessary or desirable to achieve the policy of this subchapter, the department shall conduct a hearing on the proposed amendment in the manner provided for the original hearing on execution of the agreement or issuance of the license.

(b) Notice of a hearing under this section must refer to the marketing agreement to be amended by name and date of execution and must refer to the license to be amended by name and date of adoption.

(c) The department may adopt an amendment under this section if it finds that the proposed amendment:

(1) will not prevent the marketing agreement or license from meeting the requirements of Section 102.156 of this code; and

(2) will tend to facilitate the administration of the marketing agreement or license or will enable the marketing agreement or license to better meet the requirements of Section 102.156 of this code.

(d) A marketing agreement or license is not affected by a negative department finding under Subsection (c) of this section.

(e) In considering an amendment under this section, the department shall consider the evidence presented at the original hearing or a hearing on a previously proposed amendment.

(f) An amendment under this section is not effective until approved by the handlers and producers in the manner provided by Section 102.160 of this code.

Acts 1981, 67th Leg., p. 1271, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.164. SUSPENSION OR TERMINATION OF MARKETING AGREEMENT OR LICENSE. (a) The department shall suspend for a specified period or terminate the operation of a marketing agreement, a license, or a provision of a marketing agreement or license if the department finds:

(1) following investigation, that the agreement, license, or provision obstructs or does not tend to effectuate the policy of this subchapter; or

(2) that termination of the agreement, license, or provision is favored by a majority of the producers who, during a representative period determined by the department:

(A) have been engaged in the production of the citrus fruit in the area covered by the agreement or license; and

(B) produced more than 66-2/3 percent of the volume of the citrus fruit that was produced for market within the area of the state covered by this subchapter or was produced within the area of this state covered by this subchapter for market elsewhere.

(b) Termination of a marketing agreement, a license, or a provision of a marketing agreement or license is effective only if announced on or before the end of the current marketing period specified in the agreement or license.

Acts 1981, 67th Leg., p. 1272, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.165. SUSPENSION OR REVOCATION OF INDIVIDUAL LICENSE. After notice and opportunity for a hearing, the department may suspend or revoke the license of any person who violates a provision of the license.

Acts 1981, 67th Leg., p. 1272, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.166. RECORDS. (a) Each person subject to a marketing agreement or license shall:

(1) maintain records reflecting the person's operation under the agreement or license;

(2) permit the department to inspect those records; and

(3) furnish to the department information requested by the department relating to the person's operations under the agreement or license.

(b) Except as otherwise provided by this subsection, information obtained under this section is confidential and may not be disclosed to any person. The information may be disclosed to a person with a similar right to obtain the information or to an attorney employed by an administrative committee to give legal advice on the information. In addition, the information may be

disclosed in response to a court order.

Acts 1981, 67th Leg., p. 1272, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.167. POWERS AND DUTIES OF THE DEPARTMENT. (a) The department may adopt rules and issue orders as necessary or desirable to carry out this subchapter.

(b) The department may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of relevant books, records, or documents. A person may not be excused from attending and testifying or from producing documentary evidence before the department in obedience to a subpoena on the ground that the testimony or evidence required may tend to incriminate the person or subject the person to a penalty or forfeiture. An individual may not be prosecuted or subjected to any penalty or forfeiture because of any transaction, matter, or thing concerning which the person is required to testify or produce evidence before the department in obedience to a subpoena. An individual so testifying is not exempt from prosecution and punishment for perjury committed in that testimony.

(c) The department may permit an administrative committee to use the various employees or officers of the department in carrying out this subchapter or a marketing agreement or license under this subchapter.

(d) The department may confer and cooperate with the authority of another state or the United States in order to secure uniformity in the administration of federal and state marketing agreements, standards, licenses, orders, or rules. The department may conduct hearings jointly with the United States Department of Agriculture.

(e) Repealed by Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. 703), Sec. 56(6), eff. September 1, 2021.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 446, Sec. 4(2), eff. June 14, 2013.

Acts 1981, 67th Leg., p. 1272, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 446 (S.B. 772), Sec. 4(2), eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 2, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. 703), Sec. 56(6), eff. September 1, 2021.

Sec. 102.168. ENFORCEMENT BY CIVIL SUIT. (a) The state or, with the approval of the department, an administrative committee may sue a person who:

(1) wilfully exceeds any quota, allotment, or salable percentage fixed for the person under a license issued or rule adopted by the department;

(2) makes a shipment without first obtaining a required allotment or quota or qualifying to ship the person's salable percentage; or

(3) knowingly participates or aids in activities under Subdivision (1) or (2) of this subsection.

(b) If successful in a suit under Subsection (a) of this section, the state or administrative committee is entitled to recover an amount equal to three times the current market value of the citrus fruit excess or the citrus fruit shipment, as applicable. Funds recovered in a suit under this section shall be used in the administration of the license involved in the suit.

Acts 1981, 67th Leg., p. 1273, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.169. INJUNCTION. The attorney general or a district or county attorney on the attorney's own initiative may, or in response to a complaint shall, investigate violations of this subchapter. If the attorney believes that a violation has occurred, the attorney may sue in the name of the state for an injunction against a person who:

(1) is violating a provision of a marketing agreement, a license, or an order or rule of the department to which the person is subject; or

(2) engages in transactions mentioned in and regulated by a license during suspension or after revocation of the person's license.

Acts 1981, 67th Leg., p. 1273, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.170. ATTORNEY'S FEES; VENUE; CUMULATIVE REMEDIES. (a) In an action brought under Section 102.168 or 102.169 of this code, the judgment, if in favor of the plaintiff, shall provide that the defendant pay to the plaintiff a reasonable attorney's fee and all costs of suit. An action under those sections may be brought in the county where the defendant resides or where the act, omission, or part of the act or omission occurred.

(b) The remedies and penalties of this subchapter are cumulative and action or prosecution under a section of this subchapter does not prohibit action or prosecution under another section of this subchapter or any other civil or criminal law.

Acts 1981, 67th Leg., p. 1274, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 102.171. PENALTY. (a) A person commits an offense if the person:

(1) violates a provision of a marketing agreement or license to which the person is subject; or

(2) engages in a transaction mentioned in and regulated by a license to which the person is subject during the suspension or after the revocation of the person's license.

(b) An offense under this section is a Class B misdemeanor.

(c) A person commits a separate offense for each day during which the person acts under Subsection (a) of this section.

Acts 1981, 67th Leg., p. 1274, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1989, 71st Leg., ch. 230, Sec. 120, eff. Sept. 1, 1989.

Sec. 102.172. CONFLICT WITH ANTITRUST LAW. If any provision of this subchapter conflicts with a provision of the civil or criminal antitrust law of this state, the antitrust law prevails.

Acts 1981, 67th Leg., p. 1274, ch. 388, Sec. 1, eff. Sept. 1, 1981.