

AGRICULTURE CODE

TITLE 6. PRODUCTION, PROCESSING, AND SALE OF ANIMAL PRODUCTS

SUBTITLE A. BEES AND NONLIVESTOCK ANIMAL INDUSTRY

CHAPTER 132. EGGS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 132.001. DEFINITIONS. In this chapter:

- (1) "Egg" means a chicken egg.
- (2) "Person" means an individual, firm, corporation, cooperative, or any other type of business entity.
- (3) "Shipped egg" means an egg produced outside this state and shipped into the state for purposes of resale.
- (4) "Texas egg" means an egg that is produced in this state.
- (5) "Inspection" means a personal examination by an enforcement officer of the department.

Acts 1981, 67th Leg., p. 1314, ch. 388, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1989, 71st Leg., ch. 1073, Sec. 1, eff. Sept. 1, 1989.

Sec. 132.002. LIMITATION OF CHAPTER. This chapter does not apply to a person selling only eggs that are produced by the person's own flock and for which the person does not claim a grade.
Acts 1981, 67th Leg., p. 1314, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.003. POWERS AND DUTIES OF DEPARTMENT. (a) The department shall administer this chapter and adopt and enforce necessary rules.

(b) The department may:

- (1) prescribe record forms and require the reporting of information as necessary in the administration of this chapter; and
- (2) make reciprocal agreements with other states for the inspection of locations outside of the state at which eggs are classed, graded, and weighed.

Acts 1981, 67th Leg., p. 1314, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1995, 74th Leg., ch. 419, Sec. 7.01, eff. Sept. 1, 1995.

Sec. 132.004. ADOPTION OF STANDARDS. Standards for the inspection and regulation of shell eggs, including quality, grade, and size of shell eggs, shall:

(1) be at least equal to those adopted by the United States Department of Agriculture and the federal Food and Drug Administration; and

(2) require that, after initial packing, shell eggs be stored at a temperature of 45 degrees Fahrenheit or less, provided, however, that any different temperature standard adopted by the United States Department of Agriculture and the federal Food and Drug Administration shall prevail.

Acts 1981, 67th Leg., p. 1314, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1995, 74th Leg., ch. 419, Sec. 7.02, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 559, Sec. 1, eff. Sept. 1, 1997.

Sec. 132.005. SAMPLES. (a) The department shall prescribe methods of selecting samples of lots or containers of eggs. The methods must be:

(1) reasonably calculated to ensure a fair representation of the entire lot or container sampled; and

(2) similar to methods prescribed for sampling by the United States Department of Agriculture.

(b) The department may enter during ordinary business hours a retail place of business where eggs are offered for sale to the ultimate consumer or a distribution center where eggs are held after being received from a packing plant and take for inspection representative samples of eggs and containers to determine if this chapter has been violated.

(c) The department shall compensate a place of business located in this state for the actual cost of eggs taken as samples under Subsection (b) of this section.

(d) A sample of eggs taken under this section or an official certificate of grade is prima facie evidence in the courts of this state of the condition of the entire lot from which the sample is

taken.

Acts 1981, 67th Leg., p. 1314, ch. 388, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1989, 71st Leg., ch. 1073, Sec. 2, eff. Sept. 1,
1989.

Sec. 132.006. OUT-OF-STATE INSPECTION OF RECORDS AND EXPENSES. (a) If the grade determination and size determination required by Section 132.041 of this code is performed at a location outside of this state, the records relating to eggs of a Texas licensee at that location are subject to inspection by the department as the department considers necessary.

(b) A licensee whose out-of-state location is inspected shall reimburse the department for actual and necessary expenses incurred during the inspection. If a licensee fails to pay those expenses before the 11th day following the day on which the licensee receives an invoice from the department, the department may:

- (1) automatically cancel the person's license; or
- (2) deny a license to any person who is connected with a person whose license is canceled because of a violation of this section.

(c) The actual and necessary expenses of the department for each inspection of an out-of-state location may not exceed:

- (1) the actual and necessary expenses for food, lodging, and local transportation of the inspector; and
- (2) the cost of the least expensive available space round trip air fare from Austin to the location to be inspected.

(d) The department shall schedule as many inspections as feasible within an area on each inspection trip. If more than one licensee is inspected in an area during an inspection trip, the expenses of the trip shall be divided equitably among the licensees inspected.

(e) The department shall perform sufficient inspections of the records of out-of-state licensees to ensure that out-of-state licensees selling eggs in Texas pay inspection fees equal to the percentage of out-of-state eggs sold in Texas. The department may contract with the comptroller of public accounts to perform such inspections.

Acts 1981, 67th Leg., p. 1315, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 915, ch. 216, Sec. 1, Sept. 1, 1983; Acts 1989, 71st Leg., ch. 1073, Sec. 3, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 235, Sec. 1, eff. Sept. 1, 1993.

Sec. 132.008. MEMORANDA OF UNDERSTANDING WITH OTHER STATE AGENCY. (a) The department shall initiate negotiations for and enter into a memorandum of understanding with the Texas Department of Health to coordinate regulatory programs and eliminate conflicting regulatory requirements and inspection standards.

(b) The department shall enter into an agreement as required by Subsection (a) with the Texas Department of Health regarding the regulation of eggs.

(c) The department and the Texas Department of Health may enter into memoranda of understanding in areas other than those under Subsections (a) and (b).

(d) A memorandum of understanding between the department and the Texas Department of Health must be adopted by the commissioner and the governing body of the Texas Department of Health.

(e) After a memorandum of understanding is adopted, the department shall publish the memorandum of understanding in the Texas Register.

Added by Acts 1995, 74th Leg., ch. 419, Sec. 7.03, eff. Sept. 1, 1995.

SUBCHAPTER B. LICENSING

Sec. 132.021. LICENSE REQUIRED. (a) A person may not buy or sell eggs in this state for the purpose of resale without first obtaining a license from the department.

(b) This section does not apply to:

(1) a hatchery buying eggs exclusively for hatching purposes;

(2) a hotel, restaurant, or other public eating place where all eggs purchased are served by the establishment;

(3) a food manufacturer purchasing eggs for use only

in the manufacture of food products, except for a person who operates a plant for the purpose of breaking eggs for freezing, drying, or commercial food manufacturing;

(4) an agent employed and paid a salary by a person licensed under this chapter; or

(5) a retailer selling eggs to the ultimate consumer of the eggs.

Acts 1981, 67th Leg., p. 1316, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1995, 74th Leg., ch. 419, Sec. 7.04, eff. Sept. 1, 1995.

Sec. 132.022. LICENSE CATEGORIES. (a) A person who is required by Section 132.021 of this code to be licensed shall apply to the department for licensing in the category described by this section that is appropriate to the actions of the person.

(b) A person shall apply for licensing as a broker if the person never assumes ownership or possession of eggs but acts as an agent for a fee or commission in the sale or transfer of eggs between a producer or dealer-wholesaler as seller and a dealer-wholesaler, processor, or retailer as buyer.

(c) A person shall apply for licensing as a dealer-wholesaler if the person:

(1) buys eggs from a producer or other person and sells or transfers the eggs to a dealer-wholesaler, processor, retailer, consumer, or other person; or

(2) produces eggs from the dealer-wholesaler's own flock and disposes of the production on a fully graded basis.

(d) A person shall apply for licensing as a processor if the person operates a plant for the purpose of breaking eggs for freezing, drying, or commercial food manufacturing.

(e) Repealed by Acts 1995, 74th Leg., ch. 419, Sec. 10.09(16), eff. Sept. 1, 1995.

Acts 1981, 67th Leg., p. 1316, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1995, 74th Leg., ch. 419, Sec. 10.09(16), eff. Sept. 1, 1995.

Sec. 132.023. RESIDENT AGENT FOR SERVICE. Before receiving

a license required by this chapter, an applicant whose home office or principal place of business is outside this state shall file with the department the name of an agent in this state for service of process in actions by the state or the department in the enforcement of this chapter.

Acts 1981, 67th Leg., p. 1316, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.024. LICENSE TERM. A license issued or renewed under this chapter is valid for one year.

Acts 1981, 67th Leg., p. 1316, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2005, 79th Leg., Ch. 44 (H.B. 901), Sec. 4, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 6.08, eff. September 1, 2009.

Sec. 132.025. TIME FOR PAYMENT OF LICENSE FEE. (a) An applicant for an initial license shall pay the license fee prior to the issuance of the license.

(b) An applicant for the renewal of a license must pay the license fee during the last month of the license year. A person who fails to apply for a renewal license on or before the expiration date must pay, in addition to the renewal fee, the late fee provided by Section 12.024 of this code.

Acts 1981, 67th Leg., p. 1317, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1989, 71st Leg., ch. 230, Sec. 127, eff. Sept. 1, 1989.

Sec. 132.026. FEE FOR DEALER-WHOLESALER LICENSE. (a) The license fee for each plant operated by a dealer-wholesaler is provided by department rule.

(b) The fee for an initial dealer-wholesaler's license shall be adjusted when records of the applicant's first license year are available.

(c) Repealed by Acts 1995, 74th Leg., ch. 419, Sec. 10.09(17), eff. Sept. 1, 1995.

Acts 1981, 67th Leg., p. 1317, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1983, 68th Leg., p. 4285, ch. 682, Sec. 8, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 9.09, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 419, Sec. 2.53, 10.09(17), eff. Sept. 1, 1995.

Sec. 132.027. FEE FOR PROCESSOR'S LICENSE. (a) The license fee for each plant operated by a processor is provided by department rule.

(b) The fee for an initial processor's license shall be adjusted when records of the applicant's first license year are available.

(c) Repealed by Acts 1995, 74th Leg., ch. 419, Sec. 10.09(18), eff. Sept. 1, 1995.

Acts 1981, 67th Leg., p. 1317, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 4286, ch. 682, Sec. 9, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 419, Sec. 2.54, 10.09(18), eff. Sept. 1, 1995.

Sec. 132.028. FEE FOR BROKER'S LICENSE. The department shall charge a license fee, as provided by department rule, for a broker.

Acts 1981, 67th Leg., p. 1318, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 4286, ch. 682, Sec. 10, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 419, Sec. 2.55, eff. Sept. 1, 1995.

SUBCHAPTER C. GRADE DETERMINATION, SIZE DETERMINATION, AND LABELING

Sec. 132.041. GRADE DETERMINATION AND SIZE DETERMINATION.

(a) Grades and sizes established for eggs sold in this state must be established by candling and weighing by a person licensed under this chapter.

(b) The candling and weighing must be made at:

(1) the licensee's place of business within this state; or

(2) a designated location outside the state.

Acts 1981, 67th Leg., p. 1318, ch. 388, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1989, 71st Leg., ch. 1073, Sec. 4, eff. Sept. 1,
1989.

Sec. 132.042. GRADING AND CLASSIFICATION REQUIRED. Eggs offered for sale shall be:

(1) classified as Texas eggs or shipped eggs, as applicable; and

(2) graded and weighed according to:

(A) consumer grade and weight classes, if the eggs are offered for sale to consumers; or

(B) wholesale grade and weight classes, if the eggs are offered for sale at wholesale.

Acts 1981, 67th Leg., p. 1318, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.043. INSPECTION FEES. (a) A person licensed under this chapter who first establishes the grade, size, and classification of eggs offered for sale or sold in this state shall collect a fee, as provided by department rule.

(b) A processor licensed under this chapter shall pay an inspection fee, as provided by department rule, on the processor's first use or change in form of the eggs processed.

(c) Licensees required by this section to collect or pay a special fee shall remit the fee monthly in accordance with rules established by the department.

Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 9.11, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 419, Sec. 2.56, eff. Sept. 1, 1995.

Sec. 132.044. LABELING REQUIREMENTS FOR EGG CONTAINERS.

(a) A container in which eggs for human consumption are offered for retail or wholesale must be legibly labeled with a statement showing:

(1) the size and grade of the eggs in the container;

(2) the address, including the city and state, and the license number of the person who graded and sized the eggs; and

(3) if the eggs were sized and graded at an address

other than that provided under Subdivision (2) of this subsection:

(A) the address at which the eggs were sized and graded; or

(B) a department approved code.

(b) Statements on the egg container must be in accordance with the rules of the department.

(c) A container required to be labeled under Subsection (a) of this section may not be deceptively labeled, advertised, or invoiced.

(d) If the department determines that an emergency exists that prevents or hinders labeling as provided by this section, the department may allow eggs to be labeled in another manner that includes the address and license number of a licensee and the size and grade of the eggs.

(e) The department may provide for the repacking, downgrading, or both repacking and downgrading of eggs by a retailer.

Acts 1981, 67th Leg., p. 1318, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 915, ch. 216, Sec. 2, 3, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 235, Sec. 2, eff. Sept. 1, 1993.

Sec. 132.045. SANITATION REQUIRED. (a) Eggs shall be handled under reasonably sanitary conditions in compliance with the rules of the department.

(b) After being received from the producer, shell eggs intended for human consumption shall be handled in a manner that prevents undue deterioration.

(c) Eggs in the possession of a person engaged in the sale of eggs are presumed to be intended for human consumption unless the eggs are:

(1) denatured; or

(2) labeled in accordance with a specific intended use other than human consumption.

Acts 1981, 67th Leg., p. 1319, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.046. SPECIAL REQUIREMENTS FOR SHIPPED EGGS.

Shipped eggs coming into Texas in cartons ready for retail sale must be at least Grade A, as established by a Texas licensee. Shipped eggs coming into Texas loosed packed must be inspected and graded by a Texas licensee at the licensee's place of business in Texas before being sold at retail. All shipped eggs must be transported under refrigeration in compliance with the rules of the department.

Acts 1981, 67th Leg., p. 1319, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.047. UNCARTONED EGGS. (a) Eggs offered for sale that are not in a carton must be in a container that:

(1) contains all information required by Section 132.044 of this code; and

(2) displays the information in legible letters at least one inch high on a sign attached to the container.

(b) This section does not apply to a retailer's sale of ungraded eggs if the eggs are clearly labeled as being ungraded and the retailer sells less than 120 dozen eggs a week.

Acts 1981, 67th Leg., p. 1319, ch. 388, Sec. 1, eff. Sept. 1, 1981.

SUBCHAPTER D. RECORDS

Sec. 132.061. RECORDS. (a) A licensed dealer-wholesaler or processor shall keep on file for two years a complete record of all eggs bought and sold, including:

(1) the name and address of the person from whom eggs were purchased or to whom eggs were sold;

(2) the number of cases or dozens of eggs sold in each transaction; and

(3) the date of each transaction.

(b) If a person required to keep records by this section is also a retailer and has purchased eggs in less than case lots, the person need not keep records indicating to whom eggs purchased from a particular dealer-wholesaler are sold.

(c) A person required to keep records under this section shall make the records available for inspection by the department at all reasonable times.

Acts 1981, 67th Leg., p. 1319, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.062. INVOICE. A licensed dealer-wholesaler or processor shall:

(1) deliver with each transaction, sale, or delivery a signed invoice stating the date, quantity, grade, and size of eggs sold; and

(2) keep a copy of the invoice for two years.

Acts 1981, 67th Leg., p. 1320, ch. 388, Sec. 1, eff. Sept. 1, 1981.

SUBCHAPTER E. ENFORCEMENT

Sec. 132.071. STOP-SALE ORDER. (a) If the department determines that eggs are not in compliance with this chapter, the department shall issue and enforce an order to stop the sale of the eggs.

(b) A person may not sell eggs to which a stop-sale order applies until the department determines that the eggs are in compliance with this chapter.

(c) A person to whom a stop-sale order is issued may submit the eggs for reinspection to an authorized United States Department of Agriculture inspector. If on reinspection the eggs fail to meet the specifications of the grades with which they are labeled, the seller must re-mark or re-package the eggs to meet the specifications for their actual grades before selling the eggs.

Acts 1981, 67th Leg., p. 1320, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.0715. CIVIL PENALTY; INJUNCTION. (a) A person who violates this chapter or a rule adopted under this chapter 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 in a legal action on behalf of the state.

(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 chapter or a rule adopted under this chapter. 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. 128, eff. Sept. 1, 1989.

Sec. 132.072. REVOCATION, MODIFICATION, OR SUSPENSION OF LICENSE. (a) The department shall revoke, modify, or suspend a license, assess an administrative penalty, place on probation a person whose license has been suspended, or reprimand a licensee for a violation of this chapter or a rule adopted by the department under this chapter.

(b) If a license suspension is probated, the department may require the person to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the department; or

(3) continue or renew professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

(c) If the department proposes to revoke, modify, or suspend a person's license, the person is entitled to a hearing conducted under Section [12.032](#). The decision of the department is appealable in the same manner as provided for contested cases under Chapter [2001](#), Government Code.

Acts 1981, 67th Leg., p. 1320, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1989, 71st Leg., ch. 230, Sec. 129, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 419, Sec. 3.27, eff. Sept. 1, 1995.

SUBCHAPTER F. PENALTIES

Sec. 132.081. GENERAL PENALTY. (a) A person commits an offense if the person violates a provision of this chapter.

(b) An offense under this chapter is a misdemeanor punishable by a fine of not less than \$50 nor more than \$1,000.

Acts 1981, 67th Leg., p. 1320, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.082. SELLING INEDIBLE EGGS. (a) A person commits an offense if the person sells, in bulk or in containers, eggs that are not denatured and are inedible for any reason, including eggs that are:

- (1) leakers;
- (2) affected by black, white, or mixed rot;
- (3) addled;
- (4) incubated; or
- (5) contaminated by a blood ring or an embryo chick at

or beyond the blood-ring stage.

(b) It is an exception to the application of this section that:

(1) the inedible eggs do not exceed five percent by count of the eggs sold; and

- (2) the eggs are sold to:
 - (A) a dealer for candling and grading; or
 - (B) a breaking plant for breaking purposes.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$1,000.

Acts 1981, 67th Leg., p. 1320, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.083. IMPROPER USE OF THE PREFIX "U.S." (a) A person commits an offense if the person uses the prefix "U.S." on grades and weight classes of shell eggs that are not graded under official United States Department of Agriculture supervision.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$1,000. Acts 1981, 67th Leg., p. 1321, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 132.084. MISLEADING ADVERTISING. (a) A person commits an offense if the person:

(1) advertises or sells shell eggs below the quality of Grade A by describing the eggs as "fresh," "yard," "selected," "henery," "new-laid," "infertile," "cage," or with words that have similar meaning; or

(2) advertises eggs by price without also indicating the full, correct, and unabbreviated designation of size and grade of the eggs.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$1,000. Acts 1981, 67th Leg., p. 1321, ch. 388, Sec. 1, eff. Sept. 1, 1981.