

AGRICULTURE CODE

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

SUBTITLE C. GRADING, PACKING, AND INSPECTING HORTICULTURAL
PRODUCTS

CHAPTER 92. TOMATO STANDARDIZATION AND INSPECTION

SUBCHAPTER A. GENERAL

Sec. 92.001. POLICY. It is in the interest of the public welfare of this state to provide growers, shippers, carriers, receivers, and consumers with evidence of the quality, quantity, and condition of tomatoes they grow, ship, or purchase. The purpose of this chapter is to authorize and prescribe the procedures by which growers and shippers of tomatoes may secure prompt and efficient inspection, classification, and grading of their product at reasonable cost.

Acts 1981, 67th Leg., p. 1229, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.002. DEFINITIONS. In this chapter:

(1) "Commercial quantity" means more than 500 pounds.

(2) "Cooperative agreement" means the agreement concerning shipping point inspection service having an October 1, 1931, effective date executed by the department and the United States Department of Agriculture, and all supplementary agreements executed by the department and Texas firms, corporations, or associations organized for that purpose.

(3) "Cooperative financing plan" means a system to finance and collect the expenses of inspection under a cooperative agreement.

(4) "Dealer" means a person who packs or delivers tomatoes in commercial quantities to a transporting agency for shipment.

(5) "Inspection certificate" means the joint federal-state inspection certificate under the cooperative agreement.

(6) "Inspector" means an employee of the department or the United States Department of Agriculture who is authorized to

inspect or grade tomatoes or to certify tomatoes for shipment.

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

Acts 1981, 67th Leg., p. 1229, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.003. SEASONAL APPLICATION. This chapter is effective after March 31 and before July 16 each year.

Acts 1981, 67th Leg., p. 1230, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.004. EXCEPTIONS. (a) This chapter does not apply to:

(1) a sale or delivery of unpacked and unmarked tomatoes by the grower to another person for packing and resale;

(2) a bulk sale of tomatoes by the producer to a packer for grading, packing, processing, or storing;

(3) the conversion of tomatoes by a grower or packer into a tomato by-product;

(4) the sale of unpacked or unmarked tomatoes by a grower or packer to a person who operates a commercial by-product plant and who intends to convert the tomatoes into a by-product for resale; or

(5) a sale of tomatoes in less than commercial quantities.

(b) The department may permit a grower with an entire crop of tomatoes ripe on the vine to personally transport and sell those tomatoes to retail merchants or consumers. If the department determines that a permit granted under this subsection has been abused, the department may cancel the permit.

Acts 1981, 67th Leg., p. 1230, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.005. DEPARTMENT TO ADMINISTER. The department shall direct the inspection and certification of tomato grades, sizes, packs, markings, and container designations and may:

(1) adopt tomato container standards and grades that are not in conflict with federal standards and grades or those described in Subchapter C of this chapter;

(2) adopt rules relating to tomato inspections,

standards, grades, packs, markings, and containers;

(3) adopt rules that in effect adopt a financing plan for inspection contributions under a cooperative agreement under Subchapter D of this chapter; and

(4) adopt rules relating to the issuance of licenses required under this chapter.

Acts 1981, 67th Leg., p. 1230, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.006. NOTICE. All notices provided for by this chapter shall be in writing unless this chapter specifically provides otherwise.

Acts 1981, 67th Leg., p. 1230, ch. 388, Sec. 1, eff. Sept. 1, 1981.

SUBCHAPTER B. INSPECTION AND CERTIFICATION

Sec. 92.011. INSPECTION. (a) In accordance with this subchapter, the department shall inspect tomatoes that a person intends to pack for transportation in commercial quantities.

(b) In the notice under Section 92.012 of this code, the packer or dealer may designate the location where the tomatoes are packed or the transportation point as the inspection site.

Acts 1981, 67th Leg., p. 1231, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.012. NOTICE. A person who intends to pack tomatoes for transportation shall give timely written or oral notice to the department:

(1) of the time and place the tomatoes are to be packed and transported; or

(2) that the tomatoes are to be packed and transported to the inspection station nearest the point of loading for transportation.

Acts 1981, 67th Leg., p. 1231, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.013. CERTIFICATE OF INSPECTION. After completing a tomato inspection, the department shall give the dealer a certificate of inspection that complies with the requirements of the cooperative agreement.

SUBCHAPTER C. CONTAINERS, GRADES, AND PACKS

Sec. 92.021. STANDARD CONTAINERS. Containers used to transport tomatoes shall meet the minimum standards established for fruits and vegetables by Subchapter B, Chapter 91, of this code or the standards adopted by the department.

Acts 1981, 67th Leg., p. 1231, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.022. FANCY AND CHOICE GRADES. Fancy and choice tomatoes are:

- (1) sound;
- (2) free from undesirable scars, cat faces, and insect or other damage; and
- (3) packed according to standards established by this subchapter.

Acts 1981, 67th Leg., p. 1231, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.023. FANCY TOMATO PACKS. (a) The standard packs for a six-basket crate of fancy tomatoes are:

- (1) 72's, which are packed by placing 2 and 2 alternately in 3 rows, 2 layers high, 6 to the layer, blossom end up, 12 to the basket;
- (2) 84's, which are packed by placing 2 and 2 alternately in 4 rows on edge, 8 to the layer for the first layer, 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the second layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the third or last layer, 15 to the basket; and
- (3) 108's, which are packed by placing 3 and 3 alternately in 3 rows on edge, 9 to the layer for the first layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the second or last layer, 18 to the basket.

(b) The standard packs for a four-basket crate of fancy tomatoes are:

- (1) 48's, which are packed by placing 2 and 2

alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer, and 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the second or last layer, 12 to the basket;

(2) 56's, which are packed by placing 2 and 2 alternately in 4 rows on edge, 8 to the layer for the first layer, and 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the second or last layer, 14 to the basket;

(3) 60's, which are packed by placing 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the second or last layer, 15 to the basket;

(4) 64's, which are packed by placing 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer, and 1 and 2 alternately in 7 rows, on edge, blossom end out, 10 to the layer, 16 to the basket; and

(5) 72's, which are packed by placing 3 and 3 alternately in 3 rows on edge, 9 to the layer for the first layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the second or last layer, 18 to the basket.

Acts 1981, 67th Leg., p. 1231, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.024. CHOICE TOMATO PACKS. (a) The standard packs for a six-basket crate of choice tomatoes are:

(1) 120's, which are packed by placing 2 and 2 alternately in 4 rows on edge 8, to the layer for the first layer, and 3 and 3 alternately in 4 rows on edge, blossom end out, 12 to the layer for the second or last layer, 20 to the basket;

(2) 144's, which are packed by placing 3 and 3 alternately in 4 rows on edge, 12 to the layer for the first layer and 3 and 3 in 4 rows on edge, blossom end out, 12 to the layer for the second or last layer, 24 to the basket; and

(3) 180's, which are packed by placing 3 and 3 alternately in 5 rows on edge, blossom end out, 15 to the layer for the second or last layer, 30 to the basket.

(b) The standard packs for a four-basket crate of choice tomatoes are:

(1) 84's, which are packed by placing 3 and 3

alternately in 3 rows on edge, 9 to the layer for the first layer, and 3 and 3 alternately in 4 rows on edge, blossom end out, 12 to the layer for the second or last layer, 21 to the basket;

(2) 88's, which are packed by placing 3 and 3 alternately in 3 rows on edge, 9 to the layer for the first layer, and 1 and 2 alternately in 9 rows on edge, blossom end out, 18 to the layer, 22 to the basket;

(3) 96's, which are packed by placing 3 and 3 alternately in 4 rows on edge, 12 to the layer for the first layer, and 3 and 3 alternately in 4 rows on edge, blossom end out, 12 to the layer for the second or last layer, 24 to the basket; and

(4) 104's, which are packed by placing 1 and 2 alternately in 9 rows on edge, 13 to the layer for the first layer, and 1 and 2 alternately in 9 rows on edge, 13 to the layer, blossom end out, for the second or last layer, 26 to the basket.

Acts 1981, 67th Leg., p. 1232, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.025. UNIFORMITY WITHIN A PACK. As nearly as possible, tomatoes in a crate or package shall be uniformly ripe.

Acts 1981, 67th Leg., p. 1232, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.026. DECEPTIVE CONTAINER DESIGNATIONS. A person may not pack or ship tomatoes in a container or subcontainer that is imprinted or inscribed with a designation of grade, standard, count, arrangement, or pack that is false and misleading.

Acts 1981, 67th Leg., p. 1233, ch. 388, Sec. 1, eff. Sept. 1, 1981.

SUBCHAPTER D. COOPERATIVE AGREEMENTS

Sec. 92.031. EXECUTION OF AGREEMENTS. The department may enter into cooperative agreements with the United States Department of Agriculture, or with any Texas firm, corporation, or association that is organized for that purpose, or both. An agreement may provide for the amount of contributions to be paid by dealers for inspection and grading services to be performed by the department under this chapter.

Acts 1981, 67th Leg., p. 1233, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.032. LICENSES. Department inspectors and a firm, corporation, or association that has executed a cooperative agreement shall obtain a license from the department.

Acts 1981, 67th Leg., p. 1233, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.033. CONTRIBUTIONS. (a) The legislature may not appropriate funds for the enforcement of this chapter.

(b) The department shall set contributions under this chapter in amounts that are consistent with the cost of maintaining inspection and grading services under the cooperative agreement.

(c) The contribution for each different inspection or grading service may be different.

(d) The amount of the contribution that the department may charge for services rendered is the prescribed amount or the actual cost of the service, whichever is less.

(e) The department shall hold or disburse the funds contributed under this chapter in accordance with the cooperative agreement.

Acts 1981, 67th Leg., p. 1233, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.034. PAYMENT OF CONTRIBUTIONS. (a) A packer or dealer shall pay the contribution under this subchapter to the inspector who inspects or grades the tomatoes.

(b) An inspector who renders an inspection or grading service shall withhold delivery of the inspection certificate until the contribution required under this subchapter is paid.

Acts 1981, 67th Leg., p. 1233, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.035. AUDIT. (a) The accounts and records of the chief inspector of the department are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(b) The state auditor shall make a written report of the results of an audit to the commissioner.

Acts 1981, 67th Leg., p. 1233, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1989, 71st Leg., ch. 584, Sec. 96, eff. Sept. 1, 1989.

SUBCHAPTER E. PENALTIES

Sec. 92.041. OFFENSES. A person commits an offense if the person:

(1) knowingly or intentionally interferes with an employee of the department in the performance of a duty under this chapter;

(2) knowingly or intentionally fails to obey a rule adopted by the department under this chapter;

(3) delivers or accepts tomatoes for transport, or transports tomatoes that are not accompanied by a certificate of inspection;

(4) accepts tomatoes for transport if the inspection certificate that accompanies the tomatoes shows on its face that the tomatoes are not in compliance with this chapter;

(5) knowingly or intentionally delivers tomatoes for transport if the tomatoes are packed in a container or subcontainer that is deceptively marked concerning the grade, standard, count, arrangement, or pack of the contents;

(6) packs or transports tomatoes in a container or subcontainer that is deceptively marked concerning the grade, standard, size, count, pack, arrangement, brand, or trademark of the contents;

(7) transports tomatoes in an unauthorized container or subcontainer;

(8) sells, delivers for transport, or packs or consigns for sale tomatoes unless the tomatoes conform to the standards, grades, or classifications under this chapter;

(9) forges, falsifies, or changes an inspection certificate;

(10) is in business as a dealer in tomatoes while serving as commissioner or as an employee of the department, except that the commissioner and employees of the department may sell tomatoes they grow or produce; or

(11) violates a provision of this chapter.

Acts 1981, 67th Leg., p. 1234, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 92.042. PENALTY. An offense under Section [92.041](#) of this subchapter is a Class C misdemeanor.
Acts 1981, 67th Leg., p. 1234, ch. 388, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1989, 71st Leg., ch. 230, Sec. 108, eff. Sept. 1, 1989.