

AGRICULTURE CODE

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

SUBTITLE C. GRADING, PACKING, AND INSPECTING HORTICULTURAL
PRODUCTS

CHAPTER 95. CITRUS FRUIT COLORING MATTER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 95.001. DEFINITION. In this chapter, "coloring matter" means a dye, a liquid, a concentrate, a material containing a dye, or a combination of materials that react to form a dye, that is used to enhance the color of citrus fruit by the addition of artificial color to the peel.

Acts 1981, 67th Leg., p. 1247, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.002. APPLICATION. (a) This chapter does not apply to a process or treatment that merely brings out or accelerates the natural color of citrus fruit.

(b) This chapter does not apply to citrus fruit other than citrus grandis, osbeck, commonly known as grapefruit, citrus sinensis, osbeck, commonly known as oranges, and citrus nobilis delicios, commonly known as tangerines, that are grown in this state.

Acts 1981, 67th Leg., p. 1247, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.003. DEPARTMENT TO ADMINISTER. (a) The department shall administer this chapter and adopt rules necessary for its enforcement, including rules to assure that citrus fruit that has been treated with coloring matter does not unreasonably vary in color from the color of the best ripe fruit of the same variety generally produced in this state.

(b) The department shall enforce this chapter, and may direct and supervise the enforcement of this chapter through the operation of an inspection service organized under Subchapter A, Chapter 91, of this code.

Acts 1981, 67th Leg., p. 1247, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1993, 73rd Leg., ch. 323, Sec. 3, eff. Sept. 1,

1993.

SUBCHAPTER B. MANUFACTURE, SALE, OR USE OF COLORING MATTER

Sec. 95.011. CERTIFICATION OF SAFETY. (a) Except as provided by this section, a person may not use a dye or color in the manufacture of coloring matter unless it has been certified harmless and suitable for use in foods by the United States Department of Agriculture.

(b) The department shall issue a temporary permit allowing the use of a color or dye for which certification is pending if:

(1) analysis by the department determines that the color or dye contains antimony, arsenic, barium, lead, copper, mercury, zinc, other heavy metals, or other substances known to be injurious to health, only in amounts permitted in certified food colors by the United States Department of Agriculture; and

(2) the cost of analysis is paid by the person who requests the temporary permit.

Acts 1981, 67th Leg., p. 1248, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.012. LICENSE REQUIRED. A person may not manufacture, use, or offer for use or sale a coloring matter for citrus fruit until the coloring matter is approved and the person is granted a license by the department.

Acts 1981, 67th Leg., p. 1248, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.013. ANALYSIS BY DEPARTMENT. (a) A person shall give the formula and a sample of a coloring matter, together with the formula of a noncertified dye used in the manufacture of the coloring matter, to the department before offering to sell the coloring matter or allowing another person to use, sell, or allow the use of the coloring matter.

(b) On examination of a formula and analysis of a sample of coloring matter provided under this section, the department shall deny a request for a license under Section 95.012 of this code if:

(1) either the formula or the sample contains an ingredient prohibited under Section 95.011 of this code or any

other ingredient known to be dangerous to health under the conditions of its use; or

(2) the sample varies materially from the formula.

(c) A formula provided under this section is confidential information that may not be disclosed outside the department except on court order as necessary to enforce this chapter.

Acts 1981, 67th Leg., p. 1248, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.014. BOND. (a) A person who obtains a license under Section 95.012 of this code may not exercise the license until the person executes a bond in the amount of \$5,000 payable to the governor and conditioned on the coloring matter being free from an ingredient that is harmful to the quality of citrus fruit or to health.

(b) A bond shall be cash or a surety bond cosigned by a surety company that is authorized to do business in this state.

(c) The department shall approve the form of bond.

(d) The aggregate liability on a bond may not exceed \$5,000.

(e) A person who has a claim against the bond may bring an action against the principal and the surety, jointly and severally. A judgment obtained against either the principal or surety, or both, shall include costs.

Acts 1981, 67th Leg., p. 1248, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.015. NOTICE OF USE. A person shall notify the department before using or permitting the use of coloring matter on citrus fruit. If forms for that purpose are prescribed and furnished by the department, the notice must be on those forms.

Acts 1981, 67th Leg., p. 1249, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.016. STANDARDS FOR USE OF COLORING MATTER. A person may not apply coloring matter to citrus fruits unless the citrus fruit meets the applicable maturity standards established by rule by the department under Section 94.003(a).

Acts 1981, 67th Leg., p. 1249, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1995, 74th Leg., ch. 290, Sec. 8, eff. June 5, 1995.

Sec. 95.017. LABELING. (a) Citrus fruit that is treated with coloring matter shall be marked "Color Added" in letters that are at least three-sixteenths of an inch high.

(b) Subsection (a) of this section is satisfied if no more than 45 percent of a lot of citrus fruit is imperfectly marked.

(c) If citrus fruit that has been treated with coloring matter is marked with a trademark, name, or brand by a two-line die in one operation, "Color Added" shall be placed above the trademark, name, or brand.

(d) A package of citrus fruit that has been treated with coloring matter that is sold, delivered for transportation, or transported shall be marked or securely tagged "Color Added" in letters that are at least three-fourths of an inch high.

(e) The department may adopt rules changing the requirements of this section in order to conform the practice of this state to federal standards.

Acts 1981, 67th Leg., p. 1249, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.018. VARIATION FROM LICENSED COLORING MATTER. A licensee or other person may not manufacture or use coloring matter that contains an ingredient that is prohibited under this chapter or that varies materially from the formula on file with the department.

Acts 1981, 67th Leg., p. 1249, ch. 388, Sec. 1, eff. Sept. 1, 1981.

SUBCHAPTER C. INSPECTION

Sec. 95.031. PERIODIC INSPECTION. (a) The department shall periodically:

(1) inspect citrus fruit that has been or is to be treated with coloring matter; and

(2) sample coloring matter on the premises of a licensee under this chapter and analyze the sample.

(b) A person who uses coloring matter on citrus fruit shall periodically request inspection of the citrus fruit to be treated.

(c) In order to perform the inspections required under this section, the department may enter any place within this state where

citrus fruit is prepared or colored under this chapter.

Acts 1981, 67th Leg., p. 1249, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.032. CERTIFICATE OF INSPECTION. (a) After completing a citrus fruit inspection, the inspector shall issue a certificate of inspection for all citrus fruit that meets the requirements of this chapter.

(b) A person may not make or issue a false certificate of inspection.

(c) A person may not sell, transport, or deliver for transportation citrus fruit that is not accompanied by a certificate of inspection.

(d) A certificate of inspection shall be in the form provided by the department and shall state that all inspection fees under this chapter have been paid.

Acts 1981, 67th Leg., p. 1250, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.033. NONCOMPLYING CITRUS FRUIT. (a) Citrus fruit that does not pass inspection prior to coloring shall be packed or otherwise disposed of, in the presence of an inspector, without being colored.

(b) The inspector may designate a time within usual packing hours for the disposal of citrus fruit under Subsection (a) of this section.

Acts 1981, 67th Leg., p. 1250, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.034. INSPECTION FEES. The department shall collect a fee, as provided by department rule, from each person who applies coloring matter to citrus fruit.

Acts 1981, 67th Leg., p. 1250, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1995, 74th Leg., ch. 419, Sec. 2.41, eff. Sept. 1, 1995.

Sec. 95.035. CONDEMNATION OF UNFIT CITRUS FRUIT. (a) Citrus fruit that has been treated with coloring matter but that on inspection fails to comply with this chapter or a rule of the department, or is determined to be otherwise unfit for consumption,

is condemned as a public nuisance and as detrimental to public health.

(b) The department or the sheriff of the county where the citrus fruit is located shall seize and destroy condemned citrus fruit.

(c) In lieu of seizure and destruction of condemned citrus fruit, the department may allow disposition by the owner in accordance with department rules.

Acts 1981, 67th Leg., p. 1250, ch. 388, Sec. 1, eff. Sept. 1, 1981.

SUBCHAPTER D. PENALTIES

Sec. 95.041. OFFENSES. A person commits an offense if the person:

(1) without complying with this chapter, delivers or receives for transportation, transports, or sells citrus fruit that has been treated with coloring matter; or

(2) otherwise violates a provision of this chapter or a rule adopted under this chapter.

Acts 1981, 67th Leg., p. 1251, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 95.042. PENALTY. An offense under Section 95.041 of this code is a Class B misdemeanor.

Acts 1981, 67th Leg., p. 1251, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1989, 71st Leg., ch. 230, Sec. 111, eff. Sept. 1, 1989.