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Kansas Egg Law

Kansas Statutes Annotated

Article 25. Kansas Egg Law

K.S.A. 2-2501. Citations; definitions. (a) This act shall be known and may be cited as the Kansas egg law.

(b) For the purposes of this act:

(1) "Eggs" mean eggs in the shell that are the product of the domesticated chicken, turkey, goose, guinea and any other eggs offered for sale for human consumption. Eggs shall not include balut;

(2) "person" means all individuals, firms, associations, partnerships and corporations;

(3) "department" means the Kansas department of agriculture;

(4) "secretary" means the secretary of agriculture or the secretary's authorized representative;

(5) "consumer" means a person who buys or otherwise acquires eggs for personal consumption and not for resale;

(6) "container" means any box, case, basket, carton, sack, bag or other receptacle;

(7) "ambient temperature" means the air temperature maintained in an egg storage facility or transport vehicle;

(8) "balut" means a food derived from fertile eggs, generally chicken or duck eggs, which are incubated for a period of time shorter than is necessary for hatching;

(9) "candling" means the careful examination of each shell egg and the elimination of those eggs determined unfit for human consumption;

(10) "expiration date" means the date the eggs are to be removed from sale;

(11) "food purveyor" means state institutions, military or federal installations, retailers, restaurants, cafes, cafeterias, hotels, institutions or other places where eggs are served in the shell or broken out for immediate consumption or where any foods containing eggs are sold;

(12) "graded egg" means an egg which is classified in accordance with the standards established by the Kansas department of agriculture, taking into consideration the size or weight, quality factors, interior and exterior, including condition of white and yolk, the size and condition of the air cell and cleanliness and soundness of shell;

(13) "identity" means types of eggs other than chicken eggs such as turkey, duck, guinea and other eggs;

(14) "last handler" means any person who sells, offers or exposes for sale or distributes eggs to retailers or food purveyors;

(15) "pack date" means the date the eggs were packed which shall be expressed in terms of the month and day or as a julian date;

(16) "packer" means any person who grades, sizes, candles and packs eggs for purpose of sale;

(17) "producer" means any person who exercises control over the production of eggs and disposes of eggs from the output of a flock owned by such person;

(18) "repackaging eggs" means packaging eggs in another carton or container other than the carton in which the eggs were first packed; and

(19) "retailer" means any person selling or offering eggs for sale to consumers and not for resale.

History: L. 1955, ch. 9, § 1; L. 2000, ch. 57, § 1; L. 2004, ch. 101, § 190; L. 2006, ch. 90, § 1; July 1.

K.S.A. 2-2502. Standards; tolerances. The standards of size and quality of graded eggs shall be those promulgated

and adopted by the department as provided in article 5 of chapter 74 of the Kansas Statutes Annotated and amendments thereto. The tolerances for eggs in any container or bulk lot, as determined by count, of the quality grades "Grade AA," "Grade A," and "Grade B," shall conform to the tolerances adopted by the department as provided by statute.

History: L. 1955, ch. 9, § 2; L. 2000, ch. 57, § 2; L. 2006, ch. 90, § 2; July 1.

K.S.A. 2-2503. Violations of act. It shall be a violation of this act for any person, other than those exempted by K.S.A. 2-2508, and amendments thereto, to:

- (a) Sell graded eggs below the quality of "Grade B";
- (b) sell graded eggs that are not labeled on the container to indicate size and quality thereof in boldface type letters not less than 3/8 inch in height;
- (c) sell graded eggs without the name and address of either the packer, last handler, retailer-or agent by or for whom the eggs were graded, labeled or packed, indicated on the carton or container;
- (d) falsely or deceptively label, advertise or invoice eggs;
- (e) advertise graded eggs in a manner which indicates price without also indicating the full, correct and unabbreviated designation of size and quality as provided herein;
- (f) hold eggs for human consumption at an ambient temperature higher than 45° Fahrenheit after being received at the point of first purchase or assembly;
- (g) sell graded eggs in a container which does not bear an inspection fee stamp showing that the inspection fee has been paid thereon unless the person has been issued a permit to pay the inspection fee on a quarterly basis as required by K.S.A. 2-2507, and amendments thereto;
- (h) use an inspection fee stamp more than once, or to use a counterfeit thereof;
- (i) grade eggs for size and quality for subsequent resale to food purveyors, retailers or consumers without first acquiring a license issued by the secretary for such person's place of business;
- (j) fail or neglect to file the quarterly inspection fee report and pay the inspection fee due, as provided in K.S.A. 2-2507, and amendments thereto, or to file a false quarterly inspection fee report of the quantity of eggs sold during any period;
- (k) refuse entry to any authorized inspector or employee of the department for the purpose of making inspections under the provisions of this act;
- (l) engage in the business of purchasing eggs unless there is posted in a conspicuous place in such place of business every day that such place of business is open for the purchase of eggs the prices which are being paid for each of the various grades of eggs;
- (m) offer eggs for sale that have not been candled and graded;
- (n) fail to mark all containers with official United States or Kansas grade AA, A or B identification with label to indicate that refrigeration is required, using "keep refrigerated," or words of similar meaning;
- (o) sell, offer or expose for sale or distribute eggs in this state without first acquiring a license issued by the secretary for such person's place of business; or
- (p) fail to comply with any other provision of this act or any rule or regulation adopted pursuant to this act.

History: L. 1955, ch. 9, § 3; L. 1971, ch. 7, § 1; L. 2000, ch. 57, § 3; L. 2006, ch. 90, § 3; July 1.

K.S.A. 2-2504. Enforcement of act; rules and regulations. (a) The secretary and inspectors under the supervision and control of the secretary shall enforce the provisions of this act. The department shall adopt such rules and regulations as may be necessary to carry out the provisions of this act.

(b) Any authorized inspector or employee of the department may enter any place of business within the state where any eggs are held and may take for inspection purposes representative samples of such eggs and containers for the purpose of determining whether or not any provisions of this act have been violated.

(c) Any authorized inspector or employee of the department, while enforcing the provisions of this act, may seize and hold as evidence any eggs held to be in violation of any provisions of this act.

History: L. 1955, ch. 9, § 4; L. 2000, ch. 57, § 4; July 1.

K.S.A. 2-2505. Sampling of eggs; evidence. The department shall prescribe by rules and regulations methods of selecting samples of lots or containers of eggs that will fairly represent the entire lots or containers sampled. Any sample taken pursuant to this section or an official certificate of the grade shall be prima facie evidence, in any court in this state, of the true condition of the entire lot in the examination of which such sample was taken.

History: L. 1955, ch. 9, § 5; L. 2000, ch. 57, § 5; L. 2006, ch. 90, § 4; July 1.

K.S.A. 2-2506. Penalties; injunctions. (a) Any person who violates any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100, nor more than \$1,000, or by imprisonment in the county jail for not more than six months, or by both such imprisonment and fine. (b) The district courts of Kansas shall have jurisdiction to enjoin violations of this act by injunction without the institution of criminal proceedings.

History: L. 1955, ch. 9, § 5; L. 2000, ch. 57, § 5; July 1.

K.S.A. 2-2507. Inspection fee; stamps; quarterly payment; reports and records; disposition of moneys received; egg fee fund. (a) For the purpose of financing the administration and enforcement of this act, there is hereby levied an

inspection fee on all graded eggs sold, offered or exposed for sale or distributed to food purveyors or retailers at the rate of 3.5 mills for each dozen eggs. Such fee shall be paid by the last handler. The inspection fee shall be paid only once on the same quantity of eggs so long as such eggs remain in the eggs' original container or have been repackaged in accordance with this act and are graded higher than grade B.

(b) The secretary shall provide inspection fee stamps for sale to persons requesting such stamps. The price of such inspection fee stamps shall include the printing and mailing costs thereof. Such inspection fee stamps shall also serve as a label indicating size and quality in boldface type letters not less than 3/8 inch in height.

(c) Persons desiring to report and pay the inspection fee quarterly, in lieu of using such inspection fee stamps, may make application to the secretary for a permit to pay the inspection fee quarterly, except that in no event shall the inspection fee for any quarter be less than \$15. The secretary may grant the permit if the applicant agrees to keep such records and make such report as may be necessary to indicate accurately the quantity of eggs sold on which the inspection fee is due, and if the applicant agrees to grant the secretary permission to verify the statement of quantity of eggs sold. The report shall be filed in the office of the secretary, and shall be due and payable on the first day of October, January, April and July for the previous three months. If the report is not filed and the inspection fee is not paid within 30 days after the due date, or if the report of quantity is false, the secretary may revoke the permit. In addition to the inspection fee there may be assessed against the permit holder a penalty of \$5 per day for each day the inspection fee remains unpaid after the 30-day period has expired. Such records of quantity sold shall be held for a period of three years.

(d) If the department finds that the fees specified in this section are providing more funds than necessary for the administration of this act, the department may reduce the above-mentioned fee pursuant to rules and regulations adopted by the secretary. The secretary may increase such fee when necessary, pursuant to rules and regulations adopted by the secretary, except that such fee shall not exceed the rate specified in subsection (a). The secretary shall remit all moneys received by or for the secretary under article 25 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provision of K.S.A. [75-4215](#), and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the egg fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary.

History: L. 1955, ch. 9, § 7; L. 1971, ch. 7, § 2; L. 1973, ch. 2, § 10; L. 1979, ch. 10, § 1; L. 2000, ch. 57, § 7; L. 2001, ch. 5, § 19; L. 2006, ch. 90, § 5; L. 2021, ch. 79, § 1; July 1.

K.S.A. 2-2508. Licensure of place of business, fee, exemptions; record retention. (a) Any person selling, offering or exposing for sale or distributing or grading eggs in this state shall first obtain a license for such person's place of business from the secretary. A written application for such license or a renewal of such license shall be made on a form supplied by the secretary and shall include payment of an annual license fee to be set by rules and regulations adopted by the secretary, except that such license fee shall not exceed \$25. Each license shall expire on December 31 of the year in which issued. Licenses shall not be transferable and shall be posted conspicuously at the place of business for which the license was issued so that the license may be seen by the public and by inspectors of the department of agriculture at any time during business hours. Before any license is renewed, the previous year's licensing fees and, when applicable, inspection fees shall be paid. Any person selling eggs without the required license shall be subject to having the eggs removed from sale until a license is obtained.

(b) Retailers and food purveyors shall be exempt from the licensing fee requirement of subsection (a), but shall be subject to all other requirements of the Kansas egg law.

(c) Licensees and any person required to be licensed under the provisions of this act shall keep and retain for three years such records required to verify the quantity of eggs bought, sold, offered for sale or distributed in this state. Such records shall be available for inspection by the secretary at all reasonable times.

(d) (1) A producer of eggs when selling ungraded eggs of the producer's own flock production is exempted from the provisions of this act if:

(A) The producer owns 50 or fewer hens; or

(B) (i) The producer owns more than 50 hens but fewer than 250 hens;

(ii) eggs are washed and clean;

(iii) eggs are prepackaged and labeled as ungraded with the name and address of the producer;

(iv) cartons are not reused unless all brand markings and other identification is obliterated and the carton is free of foreign material;

(v) sales are to consumers only; and

(vi) eggs are maintained at a temperature of 45° Fahrenheit or below.

(2) If such producer desires to sell graded eggs, the producer shall be permitted to do so if in compliance with this act.

History: L. 1955, ch. 9, § 8; L. 1971, ch. 7, § 3; L. 2000, ch. 57, § 8; L. 2006, ch. 90, § 6; July 1.

K.S.A. 2-2509. Container labeling requirements. (a) Each container of eggs shall be labeled with the following information:

(1) The size and quality of eggs which shall be printed in boldface type letters not less than 3/8 inch in height;

- (2) the identity of the eggs;
 - (3) name and address of either the packer, the person for whom the eggs are packed or the retailer if the eggs have been repacked;
 - (4) the pack date;
 - (5) safe handling instructions, which shall include the statements:
 - (A) "Keep refrigerated at or below 45° Fahrenheit," which shall be printed on the outside of the carton; and
 - (B) "to prevent illness from bacteria: Keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly," which may be printed either on the outside or the inside of the carton; and
 - (6) the expiration date which shall be preceded by "exp," "sell by," "use by" or similar language.
 - (b) Such information shall be printed in English, be clearly and conspicuously placed on the outside of the carton except as otherwise provided in this section, and not be false or misleading.
 - (c) The provisions of this section shall be part of and supplemental to the Kansas egg law.
- History:** L. 2006, ch. 90, § 7; July 1.

K.S.A. 2-2510. Repacking by retailers, requirements; grounds for loss of privilege. (a) A retailer may repackage eggs, including dirty eggs or eggs from containers with broken eggs, located in a store as long as the following requirements are met:

- (1) The eggs do not pose a health risk;
 - (2) the eggs are not subject to an embargo issued by the secretary;
 - (3) the eggs have not previously been repackaged;
 - (4) the eggs remain subject to inspection and the requirements of this act;
 - (5) no container with repackaged eggs is labeled with a declaration of enhanced quality or with any claim that did not appear on the original container;
 - (6) all eggs with undamaged shells are handled and repackaged employing good manufacturing practices under refrigerated conditions in accordance with United States food and drug administration regulations;
 - (7) all damaged containers and packaging material identified with the United States department of agriculture grade shield are destroyed;
 - (8) all damaged eggs are properly segregated to prevent human consumption; and
 - (9) the eggs satisfy the standards of subsection (b) or (c).
- (b) Repackaged eggs may be graded as grade B if the following standards are met:
- (1) The eggs meet grade B requirements;
 - (2) all containers shall have the following labeling requirements printed on the outside of the carton:
 - (A) Grade B and size;
 - (B) a statement saying that the eggs have been repackaged by the retailer where the eggs are located;
 - (C) name and address of the retailer that repackaged the eggs;
 - (D) a statement containing the phrase, "Keep refrigerated at or below 45° Fahrenheit";
 - (E) the expiration date that is the earliest expiration date of the repackaged eggs; and
 - (F) an inspection fee stamp on the carton indicating that the inspection fee has been paid; and
 - (3) records must be kept and available for inspection on all eggs repackaged by the retailer.
- (c) Repackaged eggs may be graded higher than grade B if undamaged eggs are placed only into containers that are already labeled with the same distributor and packer information, including the name, address, Kansas egg license number or United States department of agriculture plant number and packaging code.
- (d) Retailers may lose the privilege to repackage eggs if:
- (1) The retailer is found postdating repackaged eggs;
 - (2) the eggs do not meet grade B or higher standards; and
 - (3) the retailer has violated any other provision of this act.
- (e) The provisions of this section shall be a part of and supplemental to the Kansas egg law.
- History:** L. 2006, ch. 90, § 8; L. 2018, ch. 14, § 1; L. 2021, ch. 79, § 2; July 1.

K.S.A. 2-2511. Civil penalties for violations; order of secretary, appeal procedure. (a) In addition to any other penalty provided by law, any person who violates any provision of this act, and amendments thereto, or any rules and regulations adopted thereunder, may incur a civil penalty of not less than \$100 nor more than \$500 for each such violation. In the case of a continuing violation, every day such violation continues may be deemed a separate violation.

- (b) In determining the amount of the civil penalty, the following shall be taken into consideration: (1) The potential or actual harm, or both, caused by the violation;
- (2) the nature and persistence of the violation;
 - (3) the length of time over which the violation occurs;
 - (4) compliance history;
 - (5) any corrective actions taken; and
 - (6) any and all other relevant circumstances.
- (c) All civil penalties assessed shall be due and payable within 10 days after written notice of assessment is served on the person, unless a longer period of time is granted by the secretary.

(d) No civil penalty shall be imposed pursuant to this section except upon the written order of the secretary. Such order shall state the violation, the penalty to be imposed and the right of the person to appeal to the secretary. Any such person, within 20 days after notification, may make written request to the secretary for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(e) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

(f) An appeal to the district court or to an appellate court shall not stay the payment of the civil penalty.

(g) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(h) The provisions of this section shall be part of and supplemental to the Kansas egg law.

History: L. 2006, ch. 90, § 9; July 1.

History: L. 2006, ch. 90, § 9; L. 2010, ch. 17, § 14; July 1.

K.S.A. 2-2512. License denial, suspension, revocation or modification, grounds. (a) The secretary may deny, suspend, revoke or modify the provisions of any license issued under this act, if the secretary finds, after notice and opportunity for a hearing are given in accordance with the provisions of the Kansas administrative procedure act, that the applicant, licensee or permit holder has:

(1) Been convicted of or pleaded guilty to a violation of the Kansas egg law, and amendments thereto, or been convicted of or pleaded guilty to a felony under the laws of this state or of the United States, if the department determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(2) failed to comply with any provision or requirement of this act or any rule and regulation adopted thereunder, or any of the laws or rules and regulations of any other state or the United States relating to licensing or other provisions concerning eggs; or

(3) had any license, certificate or permit issued to the person under the Kansas egg law, and amendments thereto, or the egg laws of any other state revoked.

(b) The provisions of this section shall be part of and supplemental to the Kansas egg law.

History: L. 2006, ch. 90, § 10; L. 2010, ch. 60, § 5; July 1.

K.S.A. 2-2513. Balut; refrigeration and labeling requirements. (a) Balut must be refrigerated upon removal from incubation and maintained at a refrigerated temperature of 45° Fahrenheit, or less, while transported, stored or held for retail sale.

(b) Each container of balut shall be clearly and conspicuously labeled to inform the consumer that the product is an embryonated egg or such other term or phrase that is informative and not false or misleading.

(c) The provisions of this section shall be part of and supplemental to the Kansas egg law.

History: L. 2006, ch. 90, § 11; July 1.

K.S.A. 74-568. State board of agriculture and secretary of the state board of agriculture abolished; transfer of powers and duties to the department of agriculture and secretary of agriculture. (a) The state board of agriculture created by K.S.A. 74-503, and amendments thereto, and the office of the secretary of the state board of agriculture created by K.S.A. 74-503, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state board of agriculture and the existing secretary of the state board of agriculture are hereby transferred to and conferred and imposed upon, the department of agriculture and the secretary of agriculture established by this act.

(c) Except as otherwise provided by this act, the department of agriculture and the secretary of agriculture established by this act shall be the successor in every way to the powers, duties and functions of the state board of agriculture and the secretary of agriculture in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of agriculture or the secretary of agriculture established by this act shall be deemed to have the same force and effect as if performed by the state board of agriculture or the secretary of the state board of agriculture, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the state board of agriculture, or words of the like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(e) Except as otherwise provided by this act, whenever the secretary of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(f) All rules and regulations of the state board of agriculture or the secretary of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of agriculture by this act until revised amended or nullified pursuant to law.

(g) All rules and regulations of the division of water resources of the state board of agriculture or the chief engineer of the division of water resources of the state board of agriculture in existence on the effective date of this act shall continue to be

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effective and shall be deemed to be duly adopted rules and regulations of the chief engineer of the division of water resources of the department of agriculture established by this act until revised, amended, revoked or nullified pursuant to law.

(h) All orders and directives of the state board of agriculture or the secretary of the state board of agriculture in existence in the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the secretary of agriculture established by this act, until revised, amended or nullified pursuant to law.

(i) On the effective date of this act, the secretary of agriculture shall succeed to whatever right, title or interest the state board of agriculture has acquired in any real property in this state, and the secretary shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the state board of agriculture or the secretary of the state board of agriculture to acquire, hold or dispose of real property or any interest therein, the secretary of agriculture shall succeed to such power or authority.

(j) The secretary of agriculture established by this act shall be continuations of the state board of agriculture and the secretary of the state board of agriculture.

History: L. 1995, ch. 236, § 9; May 4.