

CHAPTER 63

AGRICULTURE

SENATE BILL 09-127

BY SENATOR(S) Schwartz, Hodge, Isgar;
also REPRESENTATIVE(S) Fischer, Baumgardner, Curry, Hullinghorst, Ryden, Sonnenberg, Tipton, Vigil.

AN ACT

CONCERNING THE CONTINUATION OF THE REGULATION OF EGG QUALITY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Repeal. 24-34-104 (40) (j) (IV), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (40) The following agencies, functions, or both, shall terminate on July 1, 2009:

(j) The following functions of the commissioner of the department of agriculture:

~~(IV) The issuance of licenses relating to poultry eggs in accordance with article 21 of title 35, C.R.S.;~~

SECTION 2. 24-34-104 (51), Colorado Revised Statutes, is amended to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (51) The following agencies, functions, or both, shall terminate on July 1, 2020:

(a) The regulation of persons working in coal mines by the department of natural resources through the coal mine board of examiners in accordance with article 22 of title 34, C.R.S.; AND

(b) THE REGULATION OF POULTRY EGGS PURSUANT TO ARTICLE 21 OF TITLE 35, C.R.S.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 3. 35-21-108, Colorado Revised Statutes, is amended to read:

35-21-108. Repeal of sections - review of functions. Sections 35-21-104 and 35-21-107 (2) are repealed, effective July 1, 2009 2020. Prior to such repeal, the licensing functions of the department shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 4. Repeal. 35-21-101 (12), (18), and (19), Colorado Revised Statutes, are repealed as follows:

35-21-101. Definitions. As used in this article, unless the context otherwise requires:

(12) ~~The terms "gross sales" and "total annual gross sales of the establishment" are synonymous and when used for license fee classification purposes mean the gross sales of all items including poultry eggs, sold annually as reported to the department of revenue, but does not include gasoline sales.~~

(18) ~~"Retailer" means any person buying eggs and selling directly to consumers.~~

(19) ~~"Wholesaler" means any person buying eggs from producers, truckers, or other wholesalers and selling to retailers, restaurants, manufacturers, or other wholesalers.~~

SECTION 5. 35-21-104 (1), (4) (a), and (4) (b), Colorado Revised Statutes, are amended to read:

35-21-104. Licenses - application - fees - rules. (1) Every person ~~buying poultry eggs for resale or~~ selling poultry eggs within this state shall obtain ~~on or before July 1 of each year, from the department a retailer's or wholesaler's~~ DEALER'S license for each place where such business is conducted. A license is not transferable. ~~and expires on June 30 of each year~~ THE LICENSE SHALL EXPIRE AND MAY BE RENEWED IN ACCORDANCE WITH RULES PROMULGATED BY THE COMMISSIONER. No reduction of license fee may be made for a fractional part of a year.

(4) (a) ~~The license categories for retailers are based on the total annual gross sales, excluding the sale of gasoline, of the establishment for the previous calendar year, as reported to the department of revenue. In the case of chain stores, the license category is based on total annual gross sales, excluding the sale of gasoline, of individual stores for the previous calendar year as reported by the home office of such chain to the department. Notwithstanding any provision of this paragraph (a) to the contrary, a retailer who has not been engaged in business during the previous calendar year shall obtain a Class I retailer license during the calendar year in which it begins or resumes operation. Fees for each license category shall be as established by the agricultural commission. Retail classes are as follows:~~

~~Class I. Retailer - Gross sales up to and including \$50,000.~~

~~Class II. Retailer - Over \$50,000 to and including \$100,000 gross sales.~~

~~Class III. Retailer - Over \$100,000 to and including \$200,000 gross sales.~~

~~Class IV. Retailer - Over \$200,000 to and including \$500,000 gross sales.~~

~~Class V. Retailer - Over \$500,000 gross sales.~~

(b) (I) The license categories ~~for wholesalers are~~ SHALL BE ESTABLISHED BY RULE BY THE COMMISSIONER based on the average number of cases of eggs (thirty dozen per case) sold per week during the previous year; ~~except that a wholesaler who has not been engaged in business during the previous calendar year shall obtain a Class I wholesaler license during the calendar year in which it begins or resumes operation TWELVE MONTHS.~~

(II) THE COMMISSION MAY ESTABLISH A LATE FEE FOR A LICENSE RENEWED AFTER IT HAS EXPIRED.

(III) Fees for each license category shall be as established by the ~~agricultural~~ commission.

(IV) The applicant for a ~~wholesale~~ license shall keep such records as may be necessary to indicate accurately the quantity of eggs sold per week during the year and shall allow the commissioner to examine these records in determining the quantity of eggs sold. A ~~wholesaler~~ LICENSEE shall retain such records of quantity sold for a period of two years. ~~The wholesale classes are as follows:~~

~~Class I. Wholesaler - Up to and including 50 cases per week.~~

~~Class II. Wholesaler - Over 50 cases to and including 100 cases per week.~~

~~Class III. Wholesaler - Over 100 cases to and including 250 cases per week.~~

~~Class IV. Wholesaler - Over 250 cases to and including 750 cases per week.~~

~~Class V. Wholesaler - Over 750 cases per week.~~

SECTION 6. 35-21-105, Colorado Revised Statutes, is amended to read:

35-21-105. Exemption. Any person who produces and sells only at retail less than two hundred fifty dozen eggs per month shall be exempted from all provisions of this article; EXCEPT THAT SUCH A PRODUCER MAY APPLY FOR A DEALER'S LICENSE AND, UPON COMPLIANCE WITH THIS ARTICLE, BE ISSUED A DEALER'S LICENSE.

SECTION 7. 35-21-101 (1), (4), (6), (10), and (11), Colorado Revised Statutes, are amended to read:

35-21-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Candling" means examining the interior of an egg by use of transmitted light ~~using a standard commercial candler~~ SUFFICIENT TO VIEW THE INTERIOR OF THE EGG.

(4) "Consignment receiver" means any person receiving eggs from producers for the account of the first receiver.

(6) "Dealer" means any person ~~who is not a producer and~~ who is engaged in buying, selling, or buying and selling eggs.

(10) "First receiver" means the first person who pays the producer for eggs.

(11) "Frozen eggs" means ~~egg meats in solid frozen state, in whole, yolks, whites, or any mixture thereof, or in combination with other edible products.~~

SECTION 8. 35-21-102 (1) and (3), Colorado Revised Statutes, are amended to read:

35-21-102. Importation, classification, and grades. (1) ~~With the exception of those eggs consigned from the producer of the eggs directly to a first receiver in Colorado for candling and grading; All shell eggs transported into this state shall first be candled and shall be edible as defined in section 35-21-101, and all such eggs shall be accompanied by an invoice or bill of lading certifying that this candling has been done. Before being sold in Colorado, all eggs, AND shall be CANDLED AND graded into Colorado consumer grades.~~

(3) ~~The department is authorized to inspect all frozen eggs, egg solids, or any egg products imported into this state. The regulations governing the grading and inspection of frozen eggs, egg solids, and egg products, adopted by the United States department of agriculture, are adopted as the regulations governing the grading and inspection of frozen eggs, egg solids, and egg products sold in this state.~~

SECTION 9. 35-21-103 (2), Colorado Revised Statutes, is amended to read:

35-21-103. Eggs to be candled - refrigeration - transportation. (2) All eggs shall be kept under adequate refrigeration. ~~from the time they are first received from the producer until sold to the consumer. This~~ THE refrigeration shall be such that the temperature of the eggs does not exceed the temperature established in rules adopted by the ~~commission~~ COMMISSIONER pursuant to section 35-21-106 (1).

SECTION 10. Repeal. 35-21-104 (4) (e), Colorado Revised Statutes, is repealed as follows:

35-21-104. Licenses - application - fees. (4) (e) ~~Any person operating retail delivery trucks or other vehicles and selling eggs from such trucks or vehicles to the consumer shall obtain a Class I retailer license for each vehicle so used.~~

SECTION 11. Repeal. 35-21-103 (1), Colorado Revised Statutes, is repealed as follows:

35-21-103. Refrigeration - transportation. (1) ~~Every person buying shell eggs from producers for resale shall candle and grade the eggs according to United States department of agriculture standards, grades, and weight classes for shell eggs. The candling and grading required by this subsection (1) shall be done in the presence~~

~~of the producer if the producer so requests. In buying eggs for resale or selling eggs, no person shall give or take a greater or less deduction for eggs rejected as unfit for food or a lower grade than the actual loss or grade which has been determined by the careful examination of the same.~~

SECTION 12. 35-21-103 (3), Colorado Revised Statutes, is amended to read:

35-21-103. Eggs to be candled - refrigeration - transportation. (3) Every vehicle used to transport eggs ~~from a producer to any dealer, processing plant, or retailer~~ shall be maintained in a sanitary condition and shall be enclosed to protect eggs from extreme heat or cold.

SECTION 13. 35-21-104 (3) (d) and (3) (e), Colorado Revised Statutes, are amended, and the said 35-21-104 (3) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

35-21-104. Licenses - application - fees. (3) An application for a license shall state:

(d) The location of the business; ~~and~~

(e) The telephone number ~~if any~~: OF THE BUSINESS;

(f) ANY OWNERSHIP INFORMATION CONCERNING THE APPLICATION THAT THE COMMISSIONER MAY REQUIRE; AND

(g) ANY CONTACT INFORMATION THAT THE COMMISSIONER MAY REQUIRE.

SECTION 14. 35-21-106 (1), Colorado Revised Statutes, is amended to read:

35-21-106. Rules - commissioner to enforce - procedure. (1) The ~~commission~~ COMMISSIONER is authorized to formulate ~~such~~ rules relating to LICENSING, TRANSPORTING, PROCESSING, labeling, sale, storage, inspection, and record-keeping as ~~it~~ THE COMMISSIONER may deem proper and necessary for the furtherance and enforcement of this article. Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

SECTION 15. 35-21-106 (2) (a), Colorado Revised Statutes, is amended to read:

35-21-106. Rules - commissioner to enforce - procedure. (2) (a) The commissioner is responsible for enforcing this article. The commissioner or the commissioner's designee shall have access during regular business hours to ~~those places of business and those~~ business PREMISES, FACILITIES, VEHICLES, AND records pertinent to activities regulated under this article.

SECTION 16. Effective date - applicability. This act shall take effect July 1, 2009, and shall apply to applications made and licenses issued or renewed on or after said date.

SECTION 17. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 25, 2009