CHAPTER 1

General Provisions; Offenses

**SECTION 46‑1‑10.** Definitions.

 1. The terms "agriculture, agricultural purposes, agricultural uses, farm crops, cultivated crops" or words of similar import shall include horticulture, floriculture, and aquaculture. Words of similar import applicable to agriculture are likewise applicable to horticulture, floriculture, aquaculture.

 2. The term "aquaculture" means the cultivation, production, or marketing of domesticated aquatic organisms.

 3. The term "domesticated aquatic organism" means any fish, aquatic invertebrate, or aquatic plant that is spawned, produced, or marketed as a cultivated crop in the waters of this State.

HISTORY: 1962 Code Section 3‑20.2; 1965(54) 104; 1966(54) 2145; 1986 Act No. 325, Section 1.

**SECTION 46‑1‑20.** Stealing crops from the field.

 A person who steals from the field any grain, cotton, or vegetables, whether severed from the freehold or not, is guilty of a:

 (1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the crop is ten thousand dollars or more;

 (2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the crop is more than two thousand dollars but less than ten thousand dollars;

 (3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the crop is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 3‑41; 1952 Code Section 3‑41; 1942 Code Section 1172; 1932 Code Section 1172; Cr. C. '22 Section 65; Cr. C. '12 Section 221; Cr. C. '02 Section 169; G. S. 2487; R. S. 164; 1826 (6) 284; 1866 (13) 405; 1879 (17) 77; 1885 (19) 140; 1903 (24) 111; 1993 Act No. 184, Section 122, eff January 1, 1994; 2010 Act No. 273, Section 16.C.C, eff June 2, 2010.

**SECTION 46‑1‑30.** Stealing melons or fruit.

 Whoever shall steal from the premises of another any melons or fruit, whether severed from the freehold or not, shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by imprisonment for not more than thirty days or by a fine of not more than fifty dollars.

HISTORY: 1962 Code Section 3‑42; 1952 Code Section 3‑42; 1942 Code Section 1169; 1932 Code Section 1169; Cr. C. '22 Section 62; Cr. C. '12 Section 218; Cr. C. '02 Section 166; R. S. 162; 1886 (19) 522.

**SECTION 46‑1‑40.** Stealing tobacco plants from beds.

 A person who steals tobacco plants, whether severed from the freehold or not, from any tobacco plant beds is guilty of a:

 (1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the tobacco plants is ten thousand dollars or more;

 (2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the tobacco plants is more than two thousand dollars but less than ten thousand dollars;

 (3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the tobacco plants is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 3‑43; 1952 Code Section 3‑43; 1942 Code Section 1169‑1; 1938 (40) 1621; 1947 (45) 64; 1993 Act No. 184, Section 123, eff January 1, 1994; 2010 Act No. 273, Section 16.D.D, eff June 2, 2010.

**SECTION 46‑1‑50.** Injuring or burning turpentine farms.

 It shall be unlawful for any person to set fire to any woods so near to any turpentine farm in this State as to injure or burn any such farm; and whoever shall wilfully and maliciously set fire to any woods at any time, whereby any such farm is injured or burned, shall be adjudged guilty of a misdemeanor and liable to be punished at hard labor in the Penitentiary for the period of one year or fined in the sum of five hundred dollars.

HISTORY: 1962 Code Section 3‑46; 1952 Code Section 3‑46; 1942 Code Section 1162; 1932 Code Section 1162; Cr. C. '22 Section 55; Cr. C. '12 Section 189; Cr. C. '02 Section 155; G. S. 2494; R. S. 151; 1876 (16) 61; 1960 (51) 1602.

**SECTION 46‑1‑60.** Making away with or disposing of produce before paying.

 (A) It is unlawful for a person engaged in the business of buying cotton, corn, rice, or similar commodities, either on his own account or for others, to buy commodities from a planter, commission merchant, or any other person for cash and fail or refuse to pay for it and make away with or dispose of it before he has paid for it.

 (B) A person who violates the provisions of this section is guilty of a:

 (1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is ten thousand dollars or more;

 (2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than two thousand dollars but less than ten thousand dollars;

 (3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the sale amount of the commodities is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

HISTORY: 1962 Code Section 3‑49; 1952 Code Section 3‑49; 1942 Code Section 1282; 1932 Code Section 1282; Cr. C. '22 Section 177; Cr. C. '12 Section 457; Cr. C. '02 Section 344; G. S. 2521; R. S. 283; 1877 (16) 250; 1993 Act No. 184, Section 124, eff January 1, 1994; 2010 Act No. 273, Section 16.E.E, eff June 2, 2010.

**SECTION 46‑1‑70.** Factors or commission merchants failing to account for produce.

 (A) It is unlawful for a factor or commission merchant to receive from a planter cotton, rice, or other agricultural produce for sale and:

 (1) sell the produce and fail to pay over the net proceeds to the planter on demand;

 (2) apply the produce to his own use and benefit; or

 (3) fail to account for the produce in a satisfactory manner if unsold.

 (B) A person who violates the provisions of this section is guilty of a:

 (1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is ten thousand dollars or more;

 (2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than two thousand dollars but less than ten thousand dollars;

 (3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the sale amount of the commodities is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

HISTORY: 1962 Code Section 3‑50; 1952 Code Section 3‑50; 1942 Code Section 1283; 1932 Code Section 1283; Cr. C. '22 Section 178; Cr. C. '12 Section 458; Cr. C. '02 Section 345; G. S. 2522; R. S. 284; 1877 (16) 250; 1993 Act No. 184, Section 125, eff January 1, 1994; 2010 Act No. 273, Section 16.F.F, eff June 2, 2010.

**SECTION 46‑1‑75.** Damage or destruction of farm product, research facility, or research equipment unlawful; penalty; definitions.

 (A) It is unlawful to maliciously damage or destroy a farm product, research facility, or research equipment used for testing or research in conjunction or coordination with a private research entity, a university, or any federal, state, or local governmental agency.

 (B) If a person violates subsection (A) and the value of the farm product, research facility, or research equipment is:

 (1) less than five hundred dollars, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both;

 (2) five hundred dollars or more, the person is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

 (C) The court may order the defendant to make restitution for the damage or destruction caused. For the purpose of ordering restitution, the court shall determine the market value of the farm product, research facility, or research equipment prior to the damage or destruction and, in so doing, shall include the cost of production, research, testing, replacement, and product development directly related to the product damaged or destroyed.

 (D) The offenses and penalties provided in this section are supplemental and in addition to all other offenses and penalties provided by law.

 (E) For purposes of this section:

 (1) "Farm product" means horticultural, aquacultural, viticultural, forestry, floricultural, dairy, livestock, poultry, bee, and other products ordinarily produced on farms.

 (2) "Research facility" means greenhouses, buildings, and offices in which farm product research is conducted.

 (3) "Research equipment" means files, data, computers, tractors, sprayers, seeders, tools, vehicles, plants, containers, and any other item pertinent to farm product research.

HISTORY: 2002 Act No. 232, Section 1, eff May 1, 2002.

**SECTION 46‑1‑80.** Destruction of produce by accident or taking of produce by force as defense to prosecutions under Sections 46‑1‑60 and 46‑1‑70.

 No person shall be convicted under the provisions of Sections 46‑1‑60 or 46‑1‑70 if he can show that the cotton, corn, rice or other products received by him were destroyed by accident, after due diligence on his part, or that he was forcibly deprived of the possession thereof.

HISTORY: 1962 Code Section 3‑51; 1952 Code Section 3‑51; 1942 Code Section 1284; 1932 Code Section 1284; Cr. C. '22 Section 179; Cr. C. '12 Section 459; Cr. C. '02 Section 346; G. S. 2523; R. S. 285; 1877 (16) 250.

**SECTION 46‑1‑90.** Fines from State Agricultural Fair to go to its treasurer.

 For the purpose of better providing for the preservation of the public peace during the annual fairs of the State Agricultural and Mechanical Society of South Carolina all fines imposed for offenses committed on the fairgrounds during the sessions of the annual fairs shall be turned over to the treasurer of the Society by the magistrate before whom such cases are tried if the arrests of the offenders were made by persons appointed or employed by the authorities of the Society.

HISTORY: 1962 Code Section 3‑52; 1952 Code Section 3‑52; 1942 Code Section 951; 1932 Code Section 951; Cr. C. '22 Section 48; Cr. C. '12 Section 48; 1910 (26) 772.

**SECTION 46‑1‑100.** Importation for sale of agricultural products below minimum standards of state of origin prohibited.

 It shall be unlawful for any person to transport into this State for sale or to offer for sale any agricultural product of a grade or quality lower than the minimum grade or quality of the product permitted to be sold in the state of its origin.

HISTORY: 1962 Code Section 3‑53; 1964 (53) 2405.

**SECTION 46‑1‑110.** Enforcement of Sections 46‑1‑100 to 46‑1‑120.

 The Commission of Agriculture shall be primarily responsible for the enforcement of Sections 46‑1‑100 to 46‑1‑120 and shall enforce all of their provisions, including obtaining injunctive relief where necessary.

HISTORY: 1962 Code Section 3‑54; 1964 (53) 2405.

Editor's Note

Section 46‑15‑21 abolished the State Agricultural Marketing Commission and transferred all powers and duties, etc. to the Department of Agriculture to be exercised by the Commission of Agriculture.

**SECTION 46‑1‑120.** Penalties for violating Sections 46‑1‑100 to 46‑1‑120.

 Any person violating the provisions of Sections 46‑1‑100 to 46‑1‑120 shall upon conviction be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 3‑55; 1964 (53) 2405.

**SECTION 46‑1‑130.** Burial of migrant agricultural workers.

 (a) Notwithstanding any other provisions of the law, any person having knowledge of the death of a person who engages in seasonal agricultural work as his primary source of income and does not normally return to his permanent place of residence each night shall, without delay, report the fact of such death to the Department of Health and Environmental Control in the county in which the body is located together with any information he may possess respecting the deceased including his identity, place of employment, permanent residence, and the name, address, and telephone number of any relatives. The County Department of Health and Environmental Control shall within a reasonable amount of time of receiving such report transmit to the State Department of Health and Environmental Control notice of the death of the deceased worker and information pertaining thereto. The State Department of Health and Environmental Control shall upon such notification make every effort to inform the nearest relative of such death.

 (b) In the event that the identity of the deceased cannot be determined within a reasonable period of time, or in the event that the body of the deceased is unclaimed seven days after death, or in the event that the estate or the relatives are unable to provide for the burial of the deceased, the Department of Health and Environmental Control is authorized to allocate a sum of not more than three hundred and fifty dollars for the burial of such worker.

 (c) In the event that the estate or the relatives of the deceased are able to provide for the burial but are unable to provide for the transportation of the body of the deceased to his legal residence or the legal residence of the relatives, the Department of Health and Environmental Control is authorized to allocate a sum of not more than two hundred dollars to defray the transportation expenses.

 (d) The Department of Health and Environmental Control is authorized to file a claim with the Social Security Administration for reimbursement of the maximum amount allowable in behalf of the deceased and to use such funds or any assets belonging to the deceased to defray the burial or transportation expenses.

HISTORY: 1977 Act No. 147.

**SECTION 46‑1‑131.** Driving vehicle through planted fields by an unauthorized person prohibited; penalties.

 It shall be unlawful for any unauthorized person to drive any type of vehicle in a wilful or negligent manner through a field in which agricultural or silviculture products are planted.

 Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars or imprisoned for a term not to exceed ninety days.

HISTORY: 1979 Act No. 103 Section 1.

**SECTION 46‑1‑140.** Requirement that irrigation systems designed or used for application of fertilizer, pesticide, or chemicals be equipped with anti‑syphon device.

 Any irrigation system which is designed or used for the applications of fertilizer, pesticide, or chemicals must be equipped with an anti‑syphon device adequate to protect against contamination of the water supply. The minimum acceptable anti‑syphon device shall include a check valve, vacuum breaker, and low pressure drain on the irrigation supply line between the irrigation pump and the point of injection of fertilizer, pesticide, or chemicals. The vacuum breaker must be upstream from the check valve. The low pressure drain must be upstream from the vacuum breaker. The injection pump must be tied to the irrigation pump either mechanically or electrically so that the injection pump shall stop operating if the irrigation pump fails to function.

 Any person who uses an irrigation system for the application of fertilizer, pesticide, or chemicals which is not equipped with an anti‑syphon device as required by this section is subject to a civil penalty of not more than five hundred dollars. Each day's violation is subject to an additional fine.

 The Division of Regulatory and Public Service Programs at Clemson University shall promulgate regulations with the advice of the Department of Health and Environmental Control as it considers necessary to implement this section and is also charged with enforcing this section. The provisions of this section do not apply to residential yard use.

HISTORY: 1986 Act No. 495, Section 1.

**SECTION 46‑1‑150.** Time for compliance with Section 46‑1‑140.

 Any person using an irrigation system on June 6, 1986 shall bring it into compliance with the provisions of Section 46‑1‑140 of the 1976 Code within two years of June 6, 1986.

HISTORY: 1986 Act No. 495, Section 2.

**SECTION 46‑1‑160.** South Carolina Farm Aid Fund; Farm Aid Advisory Board; definitions.

 (A)(1) There is created the "South Carolina Farm Aid Fund". This fund is separate and distinct from the general fund of the State and all other funds. Earnings on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. Revenues credited to this fund in a fiscal year must be used to operate a grant program that provides financial assistance to farmers.

 (2) To be eligible for a grant, the person must have:

 (a) experienced a verifiable loss of agricultural commodities of at least forty percent as a result of the catastrophic flooding of October 2015, for which:

 (i) the Governor declared a state of emergency in the State; and

 (ii) the United States Secretary of Agriculture issued a Secretarial Disaster Declaration for the county in which the farm is located;

 (b) a farm number issued by the Farm Service Agency; and

 (c) signed an affidavit, under penalty of perjury, certifying that each fact of the loss presented by the person is accurate.

 (B)(1) The Department of Agriculture shall administer the grant program authorized by this section. The Department of Revenue shall assist the Department of Agriculture in the administration of the grant program by providing auditing services, accounting services, and review and oversight of all financial aspects of the grant program. There is created the Farm Aid Advisory Board to make recommendations to the department regarding the duties of the department in administering the grant program. The Commissioner of Agriculture, or his designee, shall serve ex officio, as chairman of the board. Also, the Director of the Department of Revenue, or his designee, the Vice President for Public Service and Agriculture of Clemson Public Service Activities, or his designee, and the Vice President for Land Grant Services of South Carolina State Public Service Activities, or his designee, shall serve on the board. Finally, the following additional members shall be appointed to the board:

 (a) the Commissioner of Agriculture shall appoint one member representing South Carolina Farm Bureau;

 (b) the Commissioner of Agriculture shall appoint one member representing a farm credit association;

 (c) the Director of the Department of Revenue shall appoint one member representing the crop insurance industry; and

 (d) the Director of the Department of Revenue shall appoint one member who is an agricultural commodities producer.

 (2) Within twenty days of the effective date of this section, the board shall hold its initial meeting to recommend an application process by which a person with a loss resulting from the flooding in October 2015, may apply for a grant. Upon adoption of an application process, the Department of Agriculture shall provide the Chairmen of the House Ways and Means Committee and the Senate Finance Committee with a written copy of its application process within ten days after its adoption. A person shall apply not later than forty‑five days after the adoption of the application process. The department must ensure every person interested in applying for a grant has access to adequate resources to submit his application in a timely manner, and upon request, the department must assist a person with the preparation of his application.

 (3)(a) Each grant awarded by the department may not exceed twenty percent of the person's verifiable loss of agricultural commodities. However, a person, including any grant made to a related person, may not receive grants aggregating more than one hundred thousand dollars. Also, a person, including any grant made to a related person, may not receive grants that when combined with losses covered by insurance, exceed one hundred percent of the actual loss. If a grant is made to a related person, the amount to be included in the limits set by this section must be the amount of the grant multiplied by the person's ownership interest in the related person. However, a person who shares an ownership interest with another person or entity may not be refused a grant solely because the other person or related person has otherwise received the maximum grant amount, but in this case, the person's grant amount is limited by the person's ownership interest.

 (b) If the total amount of grants allowed pursuant to subitem (a) exceeds the monies in the fund, then each person's grant must be reduced proportionately.

 (4) To determine loss, the department:

 (a) must measure the person's cumulative total loss of all affected agricultural commodities for 2015 against the person's expected production of all agricultural commodities affected by the flood in 2015;

 (b) shall use the person's applicable actual production history yield, as determined by the Federal Crop Insurance Corporation, to determine loss for insured agricultural commodities. In determining loss for uninsured agricultural commodities, the department shall use the most recent year's county price and county yield, as applicable, as determined by the National Agriculture Statistics Service, United States Department of Agriculture; and

 (c) may require any documentation or proof it considers necessary to efficiently administer the grant program, including the ownership structure of each entity and the social security numbers of each owner. Minimally, in order to verify loss, the department shall require the submission of dated, signed, and continuous records. These records may include, but are not limited to, commercial receipts, settlement sheets, warehouse ledger sheets, pick records, load summaries, contemporaneous measurements, truck scale tickets, contemporaneous diaries, appraisals, ledgers of income, income statements of deposit slips, cash register tape, invoices for custom harvesting, u‑pick records, and insurance documents.

 (C) Grant awards must be used for agricultural production expenses and losses due to the flood which demonstrate an intent to continue the agricultural operation; however, awards may not be used to purchase new equipment. The department shall develop guidelines and procedures to ensure that funds are expended in the manner outlined in grant applications, and may require any documentation it determines necessary to verify the appropriate use of grant awards including receipts.

 (D)(1) If the department determines that a person who received a grant provided inaccurate information, then the person shall refund the entire amount of the grant. If the department determines that a person who received a grant used the funds for ineligible expenses, then the person must refund the amount of the ineligible expenses. If the person does not refund the appropriate amount, the Department of Revenue shall utilize the provisions of the Setoff Debt Collection Act to collect the money from the person.

 (2) If the department determines that a person knowingly provided false information to obtain a grant pursuant to this section or knowingly used funds for ineligible expenses, the person shall be subject to prosecution pursuant to Section 16‑13‑240.

 (E)(1) From the 2014‑2015 Contingency Reserve Fund, there is appropriated $40,000,000 to the South Carolina Farm Aid Fund.

 (2) Within forty‑five days of the completion of the awarding of grants, but no later than June 30, 2017, the Farm Aid Advisory Board is dissolved. Any funds remaining in the fund upon dissolution shall lapse to the general fund.

 (F) The department may accept private funds, grants, and property to be used to make financial awards from the grant program.

 (G) The Department of Agriculture must administer the grant program authorized by this section using existing resources and funds.

 (H) For purposes of this section:

 (1) "Agricultural commodities" means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment, excluding stored grain.

 (2) "Person" means any individual, trust, estate, partnership, receiver, association, company, limited liability company, corporation, or other entity or group.

 (3) "Related person" means any person, joint venture, or entity that has a direct or indirect ownership interest of a person or legal entity.

HISTORY: 2016 Act No. 174 (H.4717), Section 2, eff May 18, 2016.

Editor's Note

2016 Act No. 174, Section 1, provides as follows:

"SECTION 1. The General Assembly finds that:

"(1) The historic flood of October 2015 caused unprecedented damage to the State and its people, with particular devastating statewide impacts on South Carolina farmers and the state's agriculture industry.

"(2) The State has over twenty‑five thousand farms across nearly five million acres, which generate billions of dollars annually and represents a vital component to a healthy state economy.

"(3) The total loss of crops as a result of the flooding is estimated at nearly four hundred million dollars and the estimated federal crop insurance payments will only cover about one‑third of the total crop loss.

"(4) The federal crop insurance program established in 2014 is an inadequate method of indemnification as compared to traditional forms of insurance and is not sufficient to aid farmers with substantial losses due to catastrophic events of nature.

"(5) The State of South Carolina has a significant public interest to prevent the economic collapse of many of the state's farms which could cause a severe disruption in the state's economy and food supply chain."