

CHAPTER 39
Eggs and Baby Chicks

ARTICLE 1
Sale of Eggs and Baby Chicks Generally [Repealed]

SECTIONS 39-39-10 to 39-39-40. Repealed by 1994 Act No. 379, Section 2, eff May 10, 1994.

ARTICLE 3
Provisions for the Labeling and Marketing of Eggs

SECTION 39-39-110. Definitions.

As used in this chapter:

- (1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.
 - (2) "Candle" means to determine the interior quality of eggs based on the use of a candling light as defined in the federal standards.
 - (3) "Consumer" means a person using eggs for food and includes restaurants, hotels, cafeterias, hospitals, state institutions, and other establishments serving food to be consumed or produced on the premises but does not include the armed forces or other federal agency or institution.
 - (4) "Eggs" means the shell eggs of a domesticated chicken, turkey, duck, quail, goose, or guinea hen.
 - (5) "Label" means the display of any printed, graphic, or other method of identification on the shipping container or on the immediate container including, but not limited to, an individual consumer package of eggs.
 - (6) "South Carolina eggs" means eggs produced in this State.
 - (7) "Producer" means a person engaged in the business of producing and marketing eggs laid on his farm.
 - (8) "Retailer" means a person, firm, or corporation selling or offering for sale eggs to consumers in this State, or who engages in repacking, relabeling or handling loose eggs in this State.
 - (9) "Distributor" means a person offering for sale or distributing eggs in this State to a retailer, cafe, restaurant, or other establishment serving eggs to the public or to an institutional user. It includes a person distributing eggs to his own retail outlet but does not include a person engaged to haul or transport eggs nor a producer.
 - (10) "Wholesaler" means a person engaged in the business of buying or receiving eggs from producers or other persons on his own account and selling or transferring eggs to other wholesalers, processors, retailers, or other persons and consumers. A wholesaler further means a person engaged in producing eggs from his own flock and disposing of a portion of this production on a graded basis.
 - (11) "Person" means any individual, partnership, association, business trust, corporation, or organized group of persons, whether incorporated or not.
 - (12) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.
- (New) "License" means the certificate issued by the department.
- (New) "Egg-Grading Manual" refers to the United States Department of Agriculture Handbook 75
- (New) "Qualified End User" means the consumer of the food (where the term consumer does not include a business).

HISTORY: 1962 Code Section 66-621; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-120. Egg seller licenses; information to be included on application.

All wholesalers, distributors, commission merchants, **producers**, brokers, and dealers who desire to sell or offer eggs for sale in this State shall first file for a license with the Commissioner of Agriculture, upon forms furnished by the commissioner, stating the name of the firm or person desiring to offer eggs for sale either by themselves or by their agent, together with the address of the firm or person and the type or kind of eggs to be offered for sale. **The license must be issued at no cost and in a form prescribed by regulations promulgated by the department. The egg license may involve an administrative fee collected by the department for administrative purposes and shall be renewed annually. The licensing fee shall not exceed \$10 annually.**

HISTORY: 1962 Code Section 66-622; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-121. Wholesaler and distributor licenses; grounds for suspension or revocation; transfer; exception.

(A) A person may not engage in business as a wholesaler or as a distributor without first obtaining a license from the commissioner. A license issued pursuant to this article must not be suspended or revoked except for health and sanitation reasons or for violations of this article and until the affected licensee is provided with reasonable notice and an opportunity for hearing, pursuant to the South Carolina Administrative Procedures Act. Licenses issued pursuant to this article are valid until suspended or revoked and are not transferable with respect to persons or location. **There is no fee for this license.**

(B) Shell egg handlers registered under the United States Department of Agriculture Egg Surveillance Inspection Program are exempt from the provisions of subsection (A) of this section.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-122. Maintenance of records and invoices of egg purchases and sales; facility inspections.

Wholesalers, distributors, and retailers shall maintain records and invoices of their egg purchases for a period of at least ninety days. These records and invoices must show the person or firm to whom the sale was made, the address of the person or firm, and the kind and quantity of eggs involved in the sale, except that this section does not require the filing of a copy of the invoice of a sale to a consumer. The commissioner or his authorized representative may enter, during regular business hours, the place of any producer, wholesaler, retailer, retail establishment, institution, institutional user, warehouse, cold storage house, or other storage places, trucks, or carriers where eggs are stored and inspected.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-130. Shell egg standards, grades and weight classes.

The South Carolina standards, grades, and weight classes for shell eggs are the same as the United States standards, grades, and weight classes for shell eggs and their supplements and revisions as published by the United States Department of Agriculture, except as modified or rejected by regulations promulgated by the Commissioner of Agriculture.

HISTORY: 1962 Code Section 66-623; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-135. Refrigeration.

(A) Shell egg producers shall refrigerate eggs upon gathering the eggs. Eggs must be washed, sanitized, sized, graded and packed within a reasonable period of time from gathering as defined in the USDA Egg-Grading Manual.

(B) After washing, processing, and packaging, eggs must be transported, stored, and displayed at ambient temperatures not to exceed forty-five degrees Fahrenheit until sold at retail or used by a commercial establishment or public institution.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-140. Labeling requirements; conformity to U.S. Department of Agriculture standards; classification to be included in advertising.

(A) In order to protect the producer, the distributor, and the consumer, all eggs sold in this State must be labeled so as to designate their quality, size, and weight class.

(B) The department shall establish standards for the grading, classification, and marking of shell eggs bought and sold by a person in this State.

(C) The standards, on the date of the sale to the consumer, must conform to the minimum standards promulgated by the United States Department of Agriculture as defined in the "United States Standards, Grades and Weight Classes for Shell Eggs", authorized pursuant to 7 U.S.C. Section 1624.

(D) The standards of quality of the United States Department of Agriculture are adopted as the standards of quality for the enforcement of this article. An egg described by the United States Department of Agriculture as being inedible is considered inedible pursuant to the provisions of this article.

(E) At the time of packing and candling of each case of eggs, the producer or dealer shall affix a label in compliance with the Fair Labeling and Packaging Act not less than two inches by four inches or not less than eight square inches on one end of each case. On this label must be printed or stamped, legibly in letters not less than one-fourth of an inch in size, the date when the eggs were packed and candled or the expiration date, which may not exceed forty-five days from the date packed, the size and grade of the eggs, and either the name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. The name of the state of origin may be given. If eggs are sold in cartons, the cartons must show the date packed or the expiration date, which may not exceed forty-five days from the date packed, and the grade and size, together with either the name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. The state of origin also may be given.

(F) Abbreviations of words in the classification or in designating the grade and size are prohibited. The information pertaining to the grade and size must be shown in legible letters not less than one-fourth of an inch in size. The information pertaining to the name and address of the packer or the USDA assigned plant number or a state approved plant identification code and the date packed or expiration date must be given legibly. All wording on egg cases and egg cartons must be in English and must be approved by the Department of Agriculture before using.

(G) Words or phrases tending to obscure or nullify the proper classification of eggs are prohibited. Each word of the classification, including the name of the state of origin, must appear in the same size type and color in a printed advertisement. Abbreviations of a word in the classification or in designating the size and grade to which eggs belong are prohibited. A person advertising eggs for sale, at retail or wholesale, in newspapers, by window displays, or otherwise shall set forth in the advertisement the classification as to size and grade of the eggs offered for sale. The classification must be set forth in letters equal in size to those advertising the eggs for sale.

HISTORY: 1962 Code Section 66-624; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-141. Bulk retail sales; display of placards and information thereon; exceptions as to eggs in cartons; placards in restaurants.

(A) All eggs offered for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers must be classified properly in accordance with this subsection. A heavy cardboard or placard, not less than eight by eleven inches, must be displayed conspicuously at all times on or over each receptacle containing eggs offered for sale, setting forth in letters not less than one inch in height, plainly and legibly, the classification as to the quality, size, weight, and the expiration date or packed on date.

(B) The name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. ~~The name of the state of origin of eggs may appear on the placard.~~

(C) The placard is not required if eggs are packed in properly labeled cartons. The eggs are required to meet the standard as noted on the placard.

(D) Restaurants, hotels, or other eating places shall ~~display conspicuously a placard at all times on or over each receptacle containing eggs to be used in food preparation~~ provided to SC Department of Health and Environmental Control proof of department's licensed source.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-150. Unlawful acts.

It is unlawful to:

- (1) (a) offer eggs for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers and fail to display conspicuously on the case, box, or other container a plainly written designation showing the correct grade and weight class to which the eggs conform. The designation must be of the kind and in the manner required by regulations of the Department of Agriculture;
(b) offer eggs without proper labeling 39-39-140 to include size, grade, producer's address, packed on or expiration by date and department's license information or USDA assigned plant number.
- (2) use the word "nulaid", "country", "henner", "day-old", "select", "selected", ~~"certified"~~, "best", "nearby", "fresh-laid", or a similar descriptive term which the Commissioner of Agriculture, by regulation, prohibits in connection with the advertising or selling of eggs;
- (3) use the words "South Carolina" in connection with the advertisement and sale of eggs not produced in this State;
- (4) use the word "fresh" in connection with the advertisement and sale of eggs not produced in this State unless those eggs meet or exceed the quality standard designated "Grade A";
- (5) offer eggs for sale that are not stored properly in a refrigerated state or at the temperature specified in Section 39-39-135.

HISTORY: 1962 Code Section 66-626; 1955 (49) 316; 1972 (57) 2820; 1977 Act No. 128 Sections 1, 2; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-160. Enforcement; promulgation of rules and regulations.

The Commissioner of Agriculture is charged with the enforcement of this chapter and is authorized to promulgate regulations necessary to carry out its provisions and purposes.

HISTORY: 1962 Code Section 66-627; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-170. Exemptions.

The following are exempt from this chapter:

- (1) persons who buy or sell eggs to be used exclusively for hatching purposes;
- (2) shipments of eggs in interstate commerce;
- (3) producer who sell eggs at a roadside stand near the farm on which the eggs were produced.
- (4) producer selling eggs from their farms directly to end consumers of their production offsite when egg sales do not exceed 30 dozen per week.
- (5) retailers, wholesalers, distributors who do not repack or relabel but only engage in purchasing from USDA shielded/SCDA licensed egg producers.
- (6) A farm/ producer eligible for an exemption under this section may complete forms made available by the department. The department shall issue the farm an exemption certificate as an official acknowledgement of the farm's exemption status.

HISTORY: 1962 Code Section 66-628; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-180. Penalties.

(A) A civil action may be brought by the Commissioner of Agriculture in a court of competent jurisdiction to recover a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(B) The commissioner or his designee may conduct an administrative hearing and, upon notice and an opportunity to be heard, may assess a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(C) A person found willfully violating this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than ninety days, or both, in the discretion of the court.

HISTORY: 1962 Code Section 66-629; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).