

Article 25A.

North Carolina Egg Law.

**§ 106-245.13. Short title; scope; rule of construction.**

This Article is named and may be cited as the North Carolina Egg Law and relates to eggs sold in the State of North Carolina. Words used in the singular form in this Article shall include the plural, and vice versa as the cause may require. (1965, c. 1138, s. 1.)

**§ 106-245.14. Definitions.**

The following words, terms, and phrases shall be construed for the purpose of this Article as follows:

- (1) "Authorized representative" means the Commissioner or any duly authorized agent or employee who is assigned to carry out the provisions of this Article.
- (2) "Candling and grading" means selecting eggs as to their conformity to the standards of quality and size or weight class preparatory to marketing them as a specific grade and size or weight class.
- (3) "Commissioner" means the North Carolina Commissioner of Agriculture.
- (4) "Consumer" means any person who purchases eggs for his or her use or his or her own family use or consumption and not for resale.
- (5) "Container" means any box, case, basket, carton, sack, bag, or other receptacle containing eggs. "Subcontainer" means any container used within another container.
- (6) "Distributor" means any person, producer, firm or corporation offering for sale or distributing eggs in the State to a retailer, cafe, restaurant, or any other establishment offering for sale to consumers, including but not limited to institutional consumers as defined in this Article. Distributors also shall include any person, producer, firm or corporation distributing eggs to his or its own retail outlets or stores but shall not include any person, firm or corporation engaged only to haul or transport eggs.
- (7) "Eggs" means product of a domesticated chicken in the shell or as further processed egg products.
- (8) "Facilities" means any room, compartment, refrigerator or vehicle used in handling eggs in any manner.
- (9) "Grades" shall mean and include specifications defining the limit of variation in quality of two or more eggs.
- (10) "Institutional consumer" means a restaurant, hotel, licensed boarding house, commercial bakery or any other institution in which eggs are prepared as food for use by its patrons, residents or patients.
- (11) "Law" means the provisions of this Article and all rules and regulations issued hereunder.
- (12) "Lots" means a physical grouping of eggs or containers with eggs therein, as determined by the North Carolina Department of Agriculture and Consumer Services.
- (13) "Marketing of eggs" or "market" means the sale, offer for sale, gift, barter, exchange, advertising, branding, marking, labeling, grading, or other preparatory operation or distribution in any manner of eggs or containers of eggs as defined in this Article.

- (14) "Packer" means any person that is engaged in grading, shell treating or packing eggs for sale to consumers, direct or through distribution outlets of stores.
- (15) "Person" means and includes any individual, producer, firm, partnership, exchange, association, trustee, receiver, corporation, or any other business organization and any member, officer, or employee thereof.
- (16) "Retailer" means any person who markets eggs to consumers.
- (17) "Size or weight class" means a classification of eggs based on weight at the rate per dozen.
- (18) "Standards for quality" means specifications of the physical characteristics of any or all of the component parts or the individual egg. (1965, c. 1138, s. 1; 1997-261, s. 42.)

**§ 106-245.15. Designation of grade and class on containers required; conformity with designation; exemption.**

No person shall market to consumers, institutional consumers or retailers or expose for that purpose any eggs unless there is clearly designated therewith on the container the grade and size or weight class established in accordance with the provisions of this Article and such eggs shall conform to the designated grade and size or weight class (except when sold on contract to a United States governmental agency); provided, however, a producer marketing eggs of his own production shall be exempt from this section when such marketing occurs on the premises where the eggs are produced, processed, or when ungraded sales do not exceed 30 dozen per week. (1955, c. 213, s. 7; 1965, c. 1138, s. 1; 1973, c. 739, s. 1.)

**§ 106-245.16. Standards, grades and weight classes.**

The Board of Agriculture shall establish and promulgate such standards of quality, grades and weight classes for eggs sold or offered for sale in this State as will protect the consumer and the institutional consumer from eggs which are injurious or likely to be injurious to health by reason of the condition of the shell, or contents thereof, or by reason of the manner in which eggs are processed, handled, shipped, stored, displayed, sold or offered for sale. Such standards of quality, grades and weight classes as are promulgated and established by the Board shall also promote honesty and fair dealings in the poultry industry. Such standards, grades and weight classes may be modified or altered by the Board whenever it deems it necessary. (1955, c. 213, s. 9; 1965, c. 1138, s. 1; 1969, c. 139, s. 1.)

**§ 106-245.17. Stop-sale orders.**

If an authorized representative of the North Carolina Department of Agriculture and Consumer Services shall determine, after inspection, that any lot of eggs is in violation of this Article, he may issue a "stop-sale order" as to such lot or lots of eggs and forthwith notify the owner or custodian of such eggs. Such order shall specify the reason for its issuance. A stop-sale order shall prohibit the further marketing of the eggs subject to it until such eggs are released by the State agency. (1965, c. 1138, s. 1; 1997-261, s. 109.)

**§ 106-245.18. Container labeling.**

(a) Any container or subcontainer in which eggs are marketed shall bear on the outside portion of the container, but not be limited to, the following:

- (1) The applicable consumer grade provided for in this Article.
- (2) The applicable size or weight class provided for in this Article.

- (3) The word "eggs."
- (4) The numerical count of the contents.
- (5) The name and address of the packer or distributor. Words and numerals used to designate the grade and size shall be in clearly legible bold-faced type at least three-eighths inch in height. Any person intending to reuse a container shall obscure any inappropriate labeling thereon and relabel the container in accordance with this section prior to refilling the container with eggs. In any case, the address of the packer or distributor shall be shown in letters not exceeding three-eighths inch in height.

(b) The term "fresh" may only be applied to eggs conforming to the specifications for Grade A or better. No other descriptive term other than applicable grade and size may be applied. (1965, c. 1138, s. 1; 1973, c. 739, s. 2.)

#### **§ 106-245.19. Invoices.**

(a) Any person, except a producer marketing eggs to another person for candling and grading, when marketing eggs to a retailer, institutional consumer, or other person shall furnish to the purchaser at the time of delivery an invoice showing date of sale, name and address of the seller, name of purchaser, quantity, grade and size-weight classification.

(b) A copy of such invoice shall be kept on file by both the person selling and the purchaser at their respective places of business for a period of at least 30 days. (1955, c. 213, s. 7; 1965, c. 1138, s. 1.)

#### **§ 106-245.20. Advertisements.**

No person shall advertise eggs for sale at a given price unless the unabbreviated grade or quality and size-weight are conspicuously designated in block letters at least half as high as the tallest letter in the word "eggs" or the tallest figure in the price, whichever is larger. The provisions of this section shall not apply to retailers who (i) display egg prices in the same manner as other products sold by the retailer at the retail establishment, excluding any items on sale or subject to a promotion, and (ii) comply with G.S. 106-245.15. (1955, c. 213, s. 7; 1965, c. 1138, s. 1; 2013-265, s. 11.)

#### **§ 106-245.21. Rules and regulations.**

The North Carolina Board of Agriculture is authorized to make and amend, from time to time, such rules and regulations as may be necessary to administer and enforce the provisions of this Article. Such rules and regulations shall be published and copies thereof made available to interested parties upon request therefor. (1955, c. 213, s. 8; 1965, c. 1138, s. 1.)

#### **§ 106-245.22. Sanitation.**

(a) Any person engaged in the marketing of or the processing of eggs for marketing shall, in addition to maintaining egghandling facilities in a manner commensurate with laws governing food establishments, keep the eggs in a proper environment, in accordance with regulations promulgated by the North Carolina Board of Agriculture, to maintain quality. In addition, any container, including the packaging material therein, when used for the marketing of eggs shall be clean, unbroken and free from foreign odor. In all instances eggs shall, so far as possible and by use of all reasonable means, be protected from being soiled or dirtied by foreign matter. When cleaning is necessary a sanitary method approved by the Commissioner shall be employed.

(b) Repealed by Session Laws 1973, c. 739, s. 3. (1965, c. 1138, s. 1; 1973, c. 739, s. 3.)

**§ 106-245.23. Power of Commissioner.**

The Commissioner, or his authorized agents or representatives, may enter, during the regular business hours, any establishment or facility where eggs are bought, stored, offered for sale, or processed, in order to inspect and examine eggs, egg containers, and the premises, and to examine the records of such establishments or facilities relating thereto. (1955, c. 213, s. 10; 1965, c. 1138, s. 1.)

**§ 106-245.24. Penalties for violations; enjoining violations; venue.**

(a) Any person who violates any provision of this Article shall be guilty of a Class 3 misdemeanor.

(b) In addition to the criminal penalties provided for above, the Commissioner of Agriculture may apply by equity to a court of competent jurisdiction, and such court shall have jurisdiction and for cause shown to grant temporary or permanent injunction, or both, restraining any person from violating, or continuing to violate, any provisions of this Article.

(c) Any proceeding for a violation of this Article may be brought in the county where the violator resides, has a place of business or principal office or where the act or omission or part thereof, complained of occurred. (1955, c. 213, s. 12; 1965, c. 1138, s. 1; 1993, c. 539, s. 750; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 106-245.25. Warnings in lieu of criminal prosecutions.**

Nothing in this Article shall be construed as requiring the Commissioner to report for criminal prosecution violations of this Article whenever he believes that the public interest will be adequately served and compliance with the Article obtained by a suitable written notice or warning. (1965, c. 1138, s. 1.)

**§ 106-245.26. Remedies cumulative.**

Each remedy provided in this Article shall be in addition to and not exclusive of any other remedy provided for in this Article. (1965, c. 1138, s. 1.)

**§ 106-245.27. Persons punishable as principals.**

(a) Whoever commits any act prohibited by any section of this Article or aids, abets, induces, or procures its commission, is punishable as a principal.

(b) Whoever causes an act to be done which if directly performed by him or another would be a violation of the provisions of this Article, is punishable as a principal. (1965, c. 1138, s. 1.)

**§ 106-245.28. Act of agent as that of principal.**

In construing and enforcing the provisions of this Article, the act, omission, or failure, of any agent, officer or other person acting for or employed by an individual, association, partnership, corporation, or firm, within the scope of his employment or office shall be deemed to be the act, omission, or failure to [of] the individual, association, partnership, corporation, or firm as well as that of the person. (1965, c. 1138, s. 1.)

**§ 106-245.29. Reserved for future codification purposes.**