

O.C.G.A. Title 2, Ch. 1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 1 General Provisions (§§ 2-1-1 — 2-1-6)

CHAPTER 1 General Provisions

Official Code of Georgia Annotated

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O.C.G.A. § 2-1-1

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2-1-1. Definitions.

As used in this title, the term:

- (1) “Commissioner” means the Commissioner of Agriculture.
- (2) “Department” means the Department of Agriculture of this state.
- (3) “Sustainable agriculture” or “sustainable agricultural practices” means science-based agricultural practices, technologies, or biological systems supported by research or otherwise demonstrated to lead to broad outcomes-based improvements, which may include but not be limited to such critical outcomes as increasing agricultural productivity and improving human health through access to safe, nutritious, affordable food and other agricultural products, while enhancing agricultural and surrounding environmental conditions through the stewardship of water, soil, air quality, biodiversity, and wildlife habitat, so as to meet the needs of the present and improve the ability for future generations to meet their own needs while advancing progress toward environmental, social, and economic goals and the well-being of agricultural producers and rural communities.

History

Code 1981, § 2-1-1; Ga. L. 2011, p. 248, § 1/HB 225.

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O.C.G.A. § 2-1-1.1

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2-1-1.1. Policy of state to promote sustainable agriculture.

It shall be the policy of this state to promote sustainable agriculture.

History

Code 1981, § 2-1-1.1, enacted by Ga. L. 2011, p. 248, § 2/HB 225.

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O.C.G.A. § 2-1-2

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2-1-2. Verification of certain licenses by inspectors.

The inspectors of the department, in the regular course of their duties, shall verify that each facility they inspect has proper state licenses for the sale of cigarettes, malt beverages, and wine. Should any facility not have such state licenses as required by law, the state revenue commissioner shall be notified of such fact immediately, so that he can take such action as is required by law.

History

Ga. L. 1972, p. 1015, § 506.

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O.C.G.A. § 2-1-3

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2-1-3. Sales of farm products, plants, and seed on Sunday.

It shall be lawful to sell or offer for sale perishable farm products, growing plants, and perishable seed on Sunday.

History

Ga. L. 1953, Jan.-Feb. Sess., p. 202, § 1.

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O.C.G.A. § 2-1-4

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2-1-4. Anti-siphon devices for irrigation systems; rules and regulations as to such devices; hearings on violations; administrative and judicial review; filing of final order; payment of penalty.

(a) Any irrigation system which is designed or used for the application of fertilizer, pesticide, or chemicals must be equipped with an anti-siphon device adequate to protect against contamination of the water supply. Such anti-siphon device shall consist of a check valve and low pressure drain in the irrigation supply line located between the irrigation pump and the point of injection of fertilizer, pesticide, or chemicals. Any system which complied with the law in effect on January 1, 1982, shall be deemed to be in compliance with the provisions of this subsection.

(b) It shall be unlawful for any person to use any irrigation system designed or used for the application of fertilizer, pesticide, or chemicals, which system is not equipped as required by this Code section.

(c) The Commissioner shall make and publish in print or electronically such rules and regulations as he deems necessary to carry out this Code section, which rules and regulations are not inconsistent with this Code section. Such rules and regulations may specify requirements to be met by anti-siphon devices and the placement of such devices to provide adequate protection.

(d) The Commissioner, in order to enforce this Code section or any orders, rules, and regulations promulgated pursuant thereto, may issue an administrative order imposing a penalty not to exceed \$1,000.00 for each violation whenever the Commissioner, after a hearing, determines that any person has violated any provision of this Code section, or any regulation or order promulgated hereunder. The hearing and any administrative review thereof shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Any person who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of the Commissioner shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50. All penalties recovered under this Code section shall be paid into the state treasury. The Commissioner may file in the superior court wherein the person under order resides, or, if the person is a corporation, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal, whereupon such court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and proceedings in relation thereto shall thereafter be the same, as though such judgment has been rendered in a suit duly heard and determined by such court. The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the Commissioner with respect to any violation of this Code section or any orders, rules, or regulations promulgated pursuant thereto.

History

Ga. L. 1981, p. 1256, §§ 1-4; Ga. L. 1982, p. 1232, §§ 1, 2; Ga. L. 1984, p. 22, § 2; Ga. L. 1989, p. 14, § 2; Ga. L. 2010, p. 838, § 10/SB 388.

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O.C.G.A. § 2-1-5

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2-1-5. Annual license fee for grain dealers, commercial feed dealers, grain warehousemen, and qualified agricultural producers; retention of funds.

(a) An individual conducting business as a grain dealer, commercial feed dealer, and grain warehouseman shall pay an annual license fee in an amount not less than \$1,500.00 nor more than \$3,000.00. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(b) A qualified agricultural producer, as defined in Code Section 48-8-3.3, shall pay an annual license fee in an amount not less than \$15.00 nor more than \$25.00, but in no event shall the total amount of the proceeds from such fees exceed the cost of administering Code Section 48-8-3.3.

History

Code 1981, § 2-1-5, enacted by Ga. L. 1992, p. 2553, § 2.5; Ga. L. 2001, p. 1070, § 1; Ga. L. 2010, p. 9, § 1-1/HB 1055; Ga. L. 2012, p. 257, § 5-7/HB 386; Ga. L. 2014, p. 288, § 2/HB 983.

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2-1-6. Preemption of local ordinances relating to production of agricultural or farm products.

(a) No county, municipality, consolidated government, or other political subdivision of this state shall adopt or enforce any ordinance, rule, regulation, or resolution regulating crop management or animal husbandry practices involved in the production of agricultural or farm products on any private property.

(b) Subsection (a) of this Code section shall not prohibit or impair the power of any local government to adopt or enforce any zoning ordinance or make any other zoning decision. As used in this subsection, the terms “local government”, “zoning decision”, and “zoning ordinance” have the same meanings provided by Code Section 36-66-3.

(c) Subsection (a) of this Code section shall not prohibit or impair any existing power of a county, municipality, consolidated government, or other political subdivision of this state to adopt or enforce any ordinance, rule, regulation, or resolution regulating land application of human waste.

History

Code 1981, § 2-1-6, enacted by Ga. L. 2009, p. 444, § 1/ HB 529.

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O.C.G.A. Title 2

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TITLE 2 Agriculture

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Department of Agriculture (§§ 2-2-1 — 2-2-13)***

CHAPTER 2 Department of Agriculture

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Department of Agriculture (§§ 2-2-1 — 2-2-13)***

2-2-1. Department of Agriculture established.

There is established a Department of Agriculture for this state.

History

Ga. L. 1874, p. 5, § 1; Code 1882, § 1465a; Civil Code 1895, § 1789; Civil Code 1910, § 2065; Code 1933, § 5-101.

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Department of Agriculture (§§ 2-2-1 — 2-2-13)***

2-2-2. Commissioner of Agriculture — Qualifications; election; location of office.

The department shall be under the control and management of the Commissioner of Agriculture, who shall be a practical farmer, elected by qualified voters at the same time, in the same manner, and under the same rules and regulations as the Governor and statehouse officers are elected. The office of the Commissioner shall be at the capital of the state.

History

Ga. L. 1874, p. 5, § 2; Code 1882, § 1465b; Ga. L. 1889, p. 63, § 2; Civil Code 1895, § 1790; Civil Code 1910, § 2066; Code 1933, §§ 5-102, 5-103, 5-104; Ga. L. 1943, p. 126, § 1.

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Department of Agriculture (§§ 2-2-1 — 2-2-13)***

2-2-3. Commissioner of Agriculture — Term of office; removal.

The term of office of the Commissioner shall be for four years or until his successor is elected and qualified, unless he is removed in the manner prescribed by law for the removal of officers of the state government.

History

Ga. L. 1874, p. 5, § 7; Code 1882, § 1465g; Ga. L. 1889, p. 63, § 1; Civil Code 1895, § 1790; Civil Code 1910, § 2066; Ga. L. 1927, p. 207, §§ 1, 2; Code 1933, § 5-103; Ga. L. 1935, p. 98, § 1; Ga. L. 1984, p. 1152, § 2.

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Department of Agriculture (§§ 2-2-1 — 2-2-13)**

2-2-4. Commissioner of Agriculture — Salary and expenses; compensation of employees.

(a) The annual salary of the Commissioner shall be as provided in Code Sections 45-7-3 and 45-7-4. The Commissioner shall be entitled to reimbursement of expenses as provided by Code Section 45-7-20.

(b) The Commissioner is authorized to employ personnel for the department, to prescribe their duties, and to fix the compensation of such personnel; provided, however, that such compensation shall be in accordance with the rules and regulations of the State Personnel Board.

History

Ga. L. 1874, p. 5, § 3; Code 1882, § 1465c; Civil Code 1895, § 1791; Ga. L. 1905, p. 73, § 1; Ga. L. 1906, p. 110, § 1; Civil Code 1910, § 2067; Ga. L. 1919, p. 75, § 1; Ga. L. 1919, p. 92, § 1; Code 1933, § 5-105; Ga. L. 1947, p. 673, § 1; Ga. L. 1956, p. 376, § 1; Ga. L. 1960, p. 106, § 1; Ga. L. 1963, p. 586, § 1A; Ga. L. 2009, p. 745, § 2/SB 97; Ga. L. 2012, p. 446, § 2-2/HB 642.

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Department of Agriculture (§§ 2-2-1 — 2-2-13)***

2-2-5. Commissioner of Agriculture — Bond.

The Commissioner shall give a bond of \$50,000.00 as a guaranty of the faithful performance of the duties of his office and for the proper accounting for all moneys, fees, etc., received by his office. The bond shall be furnished by a surety company authorized to do business in Georgia by the laws of this state. The premium on the bond shall be paid by the state.

History

Ga. L. 1927, p. 206, § 1; Code 1933, § 5-106.

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2-2-6. Commissioner of Agriculture — Acceptance of cash, government bonds, treasury notes, or equivalency in lieu of bond.

In all cases where a licensee or an applicant for a license is required to post a bond with the Commissioner, the Commissioner is authorized to accept cash, government bonds, treasury notes, or their equivalent in lieu of the bond where the licensee or applicant cannot obtain the prescribed bond. All such funds shall be held in trust by the Commissioner and shall be subject to the payment by the Commissioner of all claims to which the bond would be subject.

History

Ga. L. 1958, p. 630, § 1.

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Department of Agriculture (§§ 2-2-1 — 2-2-13)**

2-2-7. Commissioner of Agriculture — Powers and duties.

The Commissioner of Agriculture shall serve as the chief administrative officer of the Department of Agriculture. The Commissioner shall be responsible for the enforcement of all duties imposed upon him by law. In addition to any other powers which may be conferred upon him, the Commissioner may:

- (1) Examine and investigate any matter relating to or affecting the welfare of farmers and consumers of the state;
- (2) Gather, formulate, and disseminate, in such form and in such manner as he shall deem advisable, information which may benefit the farmers and consumers of this state;
- (3) Participate in any show, fair, or exhibit in order to advance the agricultural industry in this state and make the public aware of the services offered by the Department of Agriculture;
- (4) Promulgate rules and regulations concerning the operations of the department and such rules and regulations as may be necessary to carry out and enforce the duties and responsibilities imposed upon him by law;
- (5) Secure the cooperation and assistance of the other departments and agencies of this state, or the other states, any department or agency of the United States, or any other organization that may be of assistance; and
- (6) Participate as a member of, or in an advisory capacity to, any organization or association which is of benefit to the agricultural community or consumers of the state.

History

Ga. L. 1874, p. 5, § 4; Code 1882, § 1465d; Ga. L. 1893, p. 136, § 1; Civil Code 1895, § 1792; Civil Code 1910, § 2068; Code 1933, § 5-107.

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Department of Agriculture (§§ 2-2-1 — 2-2-13)**

2-2-8. Educational exhibits promoting state resources at agricultural fairs authorized.

- (a) The Commissioner is authorized to advertise and promote the agricultural resources of this state through the use of educational exhibits at agricultural fairs. When he so desires, the Commissioner is authorized to establish such exhibits in cooperation with the College of Agricultural and Environmental Sciences of the University of Georgia, the Cooperative Extension Service of the University of Georgia, and other departments of this state.
- (b) For an event to qualify as an agricultural fair, the organization sponsoring such fair must:
 - (1) Be able to show that at least 10 percent of the total receipts thereof are paid out in the form of premiums, scholarships, or agricultural programs; and
 - (2) Be a nonprofit organization, spending the profits of the fair on the enterprise or paying them out in the form of premiums, scholarships, or educational programs.
- (c) Transportation costs, space rental, and utility costs at any agricultural fair shall be borne by the organization sponsoring such fair.
- (d) Nothing in this Code section shall be construed to prohibit governmental agencies from participating in or exhibiting the resources of this state at any agricultural fair.

History

Ga. L. 1958, p. 197, §§ 1-3; Ga. L. 1995, p. 10, § 2.

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O.C.G.A. § 2-2-8.1

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Department of Agriculture (§§ 2-2-1 — 2-2-13)**

2-2-8.1. Contributions for Farmers and Consumers Market Bulletin and Poultry Market News.

The Commissioner is authorized to publicize and request, by means of publication of appropriate notices in the *Farmers and Consumers Market Bulletin* and the *Poultry Market News*, contributions to be used exclusively for the compilation, publication, printing, and distribution of the *Farmers and Consumers Market Bulletin* and the *Poultry Market News*.

History

Code 1981, § 2-2-8.1, enacted by Ga. L. 1995, p. 353, § 1; Ga. L. 2010, p. 9, § 1-2/HB 1055.

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Department of Agriculture (§§ 2-2-1 — 2-2-13)***

2-2-9. Rules and regulations.

The Commissioner is empowered to make all necessary rules and regulations for the purpose of carrying out the purposes of this title.

History

Ga. L. 1874, p. 5, § 5; Code 1882, § 1465e; Civil Code 1895, § 1793; Civil Code 1910, § 2083; Code 1933, § 5-108.

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O.C.G.A. § 2-2-9.1

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Department of Agriculture (§§ 2-2-1 — 2-2-13)**

2-2-9.1. “Aggrieved or adversely affected” defined; administrative authority of Commissioner; hearing for individuals adversely affected; penalties; final decisions; judicial review of final decisions.

- (a) As used in this Code section, the term “aggrieved or adversely affected” means that the challenged action has caused or will cause the person injury in fact, and the injury is to an interest within the zone of interests to be protected or regulated by the statute that the Commissioner is empowered to administer and enforce.
- (b) The Commissioner shall issue all orders and perform actions to include impoundments; quarantine; the issuance, suspension, denial, or revocation of registrations, licenses, or permits; or approval or denial of applications for registrations, licenses, or permits provided for in such federal and state laws as are to be enforced by the Department of Agriculture.
- (c) Any administrative order issued by the Commissioner shall specify the alleged violation, monetary penalty, or other sanction; prescribe a reasonable time for some type of action to be accomplished; and provide notice of the right to a hearing. Any order issued pursuant to this Code section shall become final unless the aggrieved or adversely affected registrant, licensee, permittee, applicant, equine owner, livestock owner, dog or cat owner, exotic and pet bird owner, or farmer of crops or livestock, chickens, or other animals timely requests a hearing in writing as provided by this Code section.
- (d) Any registrant, licensee, permittee, applicant, equine owner, livestock owner, dog or cat owner, exotic and pet bird owner, or farmer of crops or livestock, chickens, or other animals aggrieved or adversely affected by any order or action of the Commissioner to include the issuance, suspension, denial, or revocation of a registration, license, permit, or application; impoundment; quarantine; or stop sale, stop use, or stop removal order; upon petition within 30 days after the issuance of such order or the taking of such action, shall have a right to a hearing before a hearing officer appointed or designated for such purpose by the Commissioner. The decision of the hearing officer shall constitute an initial decision of the Department of Agriculture, and any party to the hearing, including the Commissioner, shall have the right to final agency review before the Commissioner in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” and the provisions of this chapter.
- (e) Where a statute for which the Commissioner has responsibility for administration or enforcement or a provision of Article 1 of Chapter 13 of Title 50 provides for different administrative procedures in providing for a notice and opportunity to be heard other than those specified in this Code section, the Commissioner may elect which procedure to be used on a case-by-case basis.
- (f) In the event the Commissioner asserts in response to the petition before the hearing officer that the petitioner is not aggrieved or adversely affected, the hearing officer shall take evidence and hear arguments on such issue and thereafter make a ruling on such issue before continuing with the hearing. The burden of going forward with evidence on such issue shall rest with the petitioner. The decision of the hearing officer shall constitute the initial decision of the Commissioner; and any party to the hearing, including the Commissioner, shall have the right for final agency review before the Commissioner in accordance with Chapter 13 of Title 50.

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(g) Prior to notice, hearing, or determination, the Commissioner is authorized to impose civil penalties in settlement of contested cases through administrative consent orders. The Commissioner is authorized to impose through administrative consent orders civil penalties of up to and including the applicable maximum amounts provided by paragraph (1) of subsection (h) of this Code section. Any civil penalties recovered shall be paid over into the general fund of the state treasury in accordance with Code Section 45-12-92.

(h)

(1) The Commissioner may seek civil penalties for the violation of those laws to be enforced by the Department of Agriculture; and where the imposition of such civil penalties is provided for therein, the Commissioner upon written request may cause a hearing to be conducted before a hearing officer appointed or designated by the Commissioner for the purpose of determining whether such civil penalties should be imposed in accordance with the applicable law; and where the imposition of such civil penalties is not provided for therein but violation of such law is punishable as a criminal offense, the Commissioner upon written request may cause a hearing to be conducted before a hearing officer appointed or designated by the Commissioner for the purpose of determining whether civil penalties in an amount not to exceed \$1,000.00 per violation should be imposed. Any civil penalties recovered shall be paid over into the general fund of the state treasury in accordance with Code Section 45-12-92. The Commissioner may require any person to obtain a surety bond on the balance of a monetary penalty or suspended portion of a monetary penalty imposed on such person pursuant to a consent order or final decision from which no further review is taken or allowed. If any aggrieved or adversely affected party fails to follow the terms of such consent order or final decision, the Commissioner may commence and maintain an action against the principal and surety on the bond.

(2) The decision of the hearing officer shall constitute the initial decision of the Commissioner; and any party to the hearing, including the Commissioner, shall have the right of final agency review before the Commissioner in accordance with Chapter 13 of Title 50.

(3) In rendering a decision on a requested civil penalty, the hearing officer shall consider all relevant factors including, but not limited to, the following:

- (A)** The amount of civil penalty necessary to ensure immediate and continued compliance and the extent to which the violator may have profited by failing or delaying to comply;
- (B)** The conduct of the person incurring the civil penalty in promptly taking all feasible steps or procedures necessary or appropriate to comply with or to correct the violation or failure to comply;
- (C)** Any prior violations of, or failures by, such person to comply with statutes, rules, regulations, or orders administered, adopted, or issued by the Commissioner;
- (D)** The character and degree of injury to or interference with public health or safety which is caused or threatened to be caused by such violation or failure to comply;
- (E)** The character and degree of injury to or interference with reasonable use of property which is caused or threatened to be caused by such violation or failure to comply; and
- (F)** The character and degree of intent with which the conduct of the person incurring the civil penalty was carried out.

(i)

(1) Once the hearing officer issues an initial decision, that decision may be appealed by any party to the Commissioner for final agency review. The party requesting final agency review shall have 30 days from notice of the initial decision to file an application for final agency review. If the initial decision is not appealed within 30 days by any party, it shall be deemed final without need of any further proceedings.

(2) In application, the party requesting final agency review from the Commissioner shall include a short and plain statement of:

- (A)** The reasons for seeking review; and

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(B) Any alleged errors in the initial decision.

(3) The Commissioner may in his or her discretion seek review on his or her own motion pursuant to subsection (a) of Code Section 50-13-17.

(4) Opposing parties may submit statements in response within 20 days of service of an application for final agency review.

(5) A copy of any application for final agency review or in opposition of application for review shall be served on all parties and their counsel as well as the Commissioner.

(j)

(1) The standard for final agency review of the initial decision shall be de novo review.

(2) The Commissioner may only review the record considered by the hearing officer in the initial decision hearing. The Commissioner shall not rely on investigative files.

(3) The Commissioner shall possess all the powers that the hearing officer had during the initial decision hearing.

(4) There shall be a presumption of correctness for the hearing officer's credibility determination of witnesses appearing before the hearing officer.

(5) The Commissioner shall not base his or her decision on conjecture, speculation, or impermissible inferences.

(k)

(1) The hearing officer shall forward to the Commissioner prior to review:

(A) A copy of the record of the case including the initial decision;

(B) All pleadings;

(C) Transcripts of the hearing; and

(D) All exhibits.

(2) During the final agency review, the Commissioner may hear or take testimony from any party, including the registrant, licensee, permittee, applicant, equine owner, livestock owner, dog or cat owner, exotic and pet bird owner, or farmer of crops or livestock, chickens, or other animals based on such authority as existed during the initial decision hearing.

(3) A party may file a motion not less than 14 days prior to the date of the final agency review to introduce evidence not submitted at the initial decision hearing. Additional evidence may be admitted only if it is material and if good cause exists for not presenting the evidence at the initial decision hearing. Opposing parties may submit responding motions in support of suppression of additional evidence seven days prior to the final agency review. Copies of all motions shall be served on the other party and its counsel as well as the Commissioner.

(l)

(1) The final decision shall be in writing, and if an initial decision is modified, the Commissioner shall give his or her reasons therefor in the form of findings of fact and conclusions of law, separately stated, along with the effective date of the final decision. If the Commissioner does not issue a final decision within 30 days, the initial decision shall be deemed final without need of further proceedings. Further, once the initial decision is final, a party's right to judicial review shall be extinguished.

(2) The Commissioner's final decision shall be rendered not later than 30 days from the date of the filing of an application for final agency review unless such period is extended pursuant to paragraph (4) of this subsection.

O.C.G.A. § 2-2-9.1

- (3)** The Commissioner may modify sanctions after review of an initial decision on appeal, stating the sanctions in the final decision. The Commissioner shall not have to make separate findings of fact to justify modified sanctions.
- (4)** The period of decision may be extended due to complexity of issues or volume of record materials. All parties involved shall be notified of any extension. A decision shall be rendered as soon as practicable.
- (5)** The Commissioner shall serve on the:
- (A)** Opposing party;
 - (B)** Opposing party's counsel;
 - (C)** Agency counsel; and
 - (D)** Original hearing officer
- any resulting decision or notify the above parties if there is no change to the initial decision along with a statement of rights on appeal to the opposing party and counsel within 30 days of any such decision.

(m)

- (1)** A party, or the Commissioner on his or her own motion, may seek reconsideration by the Commissioner of a final agency decision.
- (2)** A party's written request for reconsideration must be submitted to the Commissioner within ten days of service of the final decision. The request shall include a short and plain statement of:
- (A)** All matters alleged to have been erroneously decided; and
 - (B)** Any newly discovered factual matters and the reasons why any matters were not raised previously.
- (3)** Opposing parties may submit statements in response within 20 days of service of the request of the consideration.
- (4)** All requests for reconsideration and statements in opposition shall be served on all parties and the Commissioner.
- (5)** If the final agency decision is modified, the Commissioner shall give his or her reasons therefor in the form of findings of fact and conclusions of law along with the effective date of the decision.
- (6)** The Commissioner's reconsideration decision shall be rendered within 30 days following the latest filing deadline.

(n) Judicial review of the Commissioner's final decision may be had in accordance with Code Section 50-13-19.

(o)

- (1)** Any order issued by the Commissioner under the laws of this state to be enforced by the Department of Agriculture pursuant to a final decision, either unappealed from as provided by law or affirmed or modified on any review or appeal, and from which no further review is taken or allowed, may be filed, by certified copy of the order or final decision from the department, in the superior court of the county wherein the person under order resides, or if such person is a corporation in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred or in which jurisdiction is appropriate; whereupon such superior court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though such judgment had been rendered in an action duly heard and determined by such court.

O.C.G.A. § 2-2-9.1

(2) The Commissioner may commence an action in any superior court of proper venue to enforce any order issued by him or her and made an order of the superior court pursuant to this Code section.

(p)

(1) If a judicial review of the Commissioner's final decision is sought in accordance with Code Section 50-13-19, and the matter involves the impoundment of equines under Chapter 13 of Title 4, the "Georgia Humane Care for Equines Act," the Commissioner shall, along with his or her answer to the petition, include a statement of the costs incurred in the impoundment and care of the impounded animal or animals and an estimate of the future costs expected to be incurred in the care of the impounded animal or animals. The judge of the superior court may then require the petitioner to submit a surety bond to the court in an amount necessary to provide for the reasonable costs of care for the impounded animal or animals. In lieu of a surety bond, the court may accept a cash bond or property bond, which shall in all respects be subject to the same claims and actions as would exist against a surety bond.

(2) Upon the entering of a final adverse decision against an aggrieved party by the superior court, the Commissioner shall within 15 days deliver to the court and to the aggrieved party a statement of the costs incurred in the impoundment and care of the impounded animal or animals. The aggrieved party shall then render payment of such costs to the Commissioner within 15 days after the service of the statement of the costs. If the aggrieved party fails to render payment to the Commissioner within the time period required in this paragraph, the Commissioner may commence and maintain an action against the principal and surety on the bond of the aggrieved party as in any civil action.

History

Code 1981, § 2-2-9.1, enacted by Ga. L. 2004, p. 598, § 1; Ga. L. 2009, p. 446, § 1/SB 152; Ga. L. 2012, p. 698, § 1/HB 746; Ga. L. 2012, p. 1116, § 1/SB 367.

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O.C.G.A. § 2-2-10

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 2
Department of Agriculture (§§ 2-2-1 — 2-2-13)**

2-2-10. Imposition of penalty authorized in lieu of other action; funding to general treasury.

(a) In any proceeding before the Commissioner involving a license, certificate, or registration issued by the Commissioner or a violation of the laws administered and enforced by the Commissioner and the rules and regulations promulgated thereunder, after notice, hearing, and a determination by him or her as provided by law that there are sufficient grounds to revoke, suspend, or cancel the license, certificate, or registration involved or to take any other action authorized by law in regard to the violation in question, the Commissioner may impose a reasonable penalty for each offense in lieu of a revocation, suspension, cancellation, or other authorized action. Except as provided in subsection (b) of this Code section, such a penalty shall be imposed only with the consent of the affected party; and except as provided in subsection (b) of this Code section, the amount of any such penalty shall not exceed \$1,000.00.

(b) In any case subject to this Code section which involves a violation or attempted violation of Article 2 of Chapter 2 of Title 26, the “Georgia Food Act,” the maximum penalty shall not exceed the greater of \$1,000.00 or the amount of gain realized or sought to be realized through such violation, but in no event shall such penalty exceed \$20,000.00; and in any case involving a violation or attempted violation of the “Georgia Food Act,” the written consent of the person against whom the penalty is to be imposed shall not be required.

(c) Any civil penalties recovered shall be paid over into the general fund of the state treasury in accordance with Code Section 45-12-92.

History

Ga. L. 1960, p. 245, § 1; Ga. L. 1985, p. 1444, § 1; Ga. L. 2000, p. 1300, § 1; Ga. L. 2003, p. 838, § 1; Ga. L. 2009, p. 446, § 2/SB 152; Ga. L. 2020, p. 493, § 2/SB 429.

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O.C.G.A. § 2-2-11

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 2
Department of Agriculture (§§ 2-2-1 — 2-2-13)**

2-2-11. Inspection warrants.

Whenever the Constitution or laws of the United States or the State of Georgia require the issuance of a warrant to make an inspection under any law administered by the Commissioner of Agriculture or the Department of Agriculture, the procedure set forth in paragraphs (1) through (7) of this Code section shall be employed.

- (1)** The Commissioner or any person authorized to make inspections for the Commissioner shall make application for an inspection warrant to a person who is a judicial officer within the meaning of Code Section 17-5-21.
- (2)** An inspection warrant shall be issued only upon cause and when supported by an affidavit particularly describing the place, dwelling, structure, premises, or vehicle to be inspected and the purpose for which the inspection is to be made. In addition, the affidavit shall contain either a statement that consent to inspect has been sought and refused or facts or circumstances reasonably justifying the failure to seek such consent. Cause shall be deemed to exist if either reasonable legislative or administrative standards for conducting a routine or area inspection are satisfied with respect to the particular place, dwelling, structure, premises, or vehicle, or there is reason to believe that a condition of nonconformity exists with respect to the particular place, dwelling, structure, premises, or vehicle.
- (3)** An inspection warrant shall be effective for the time specified therein, but not for a period of more than 14 days, unless extended or renewed by the judicial officer who signed and issued the original warrant, upon satisfying himself that such extension or renewal is in the public interest. Such inspection warrant must be executed and returned to the judicial officer by whom it was issued within the time specified in the warrant or within the extended or renewed time. After the expiration of such time, the warrant, unless executed, is void.
- (4)** An inspection pursuant to an inspection warrant shall be made between 8:00 A.M. and 6:00 P.M. of any day or at any time during operating or regular business hours. An inspection should not be performed in the absence of an owner or occupant of the particular place, dwelling, structure, premises, or vehicle unless specifically authorized by the judicial officer upon a showing that such authority is reasonably necessary to effectuate the purpose of the regulation being enforced. An inspection pursuant to a warrant shall not be made by means of forcible entry, except that the judicial officer may expressly authorize a forcible entry where facts are shown which are sufficient to create a reasonable suspicion of a violation of this title or any other law administered by the Commissioner or the department, which, if such violation existed, would be an immediate threat to health or safety, or where facts are shown establishing that reasonable attempts to serve a previous warrant have been unsuccessful. Where prior consent has been sought and refused and a warrant has been issued, the warrant may be executed without further notice to the owner or occupant of the particular place, dwelling, structure, premises, or vehicle to be inspected.
- (5)** It shall be unlawful for any person to refuse to allow an inspection pursuant to an inspection warrant issued as provided in this Code section. Any person violating this paragraph shall be guilty of a misdemeanor.

O.C.G.A. § 2-2-11

(6) Under this Code section, an inspection warrant is an order, in writing, signed by a judicial officer, directed to the Commissioner or any person authorized to make inspections for the Commissioner, and commanding him or her to conduct any inspection required or authorized by this title or any other law administered by the Commissioner or the department or regulations promulgated pursuant to this title or any other law administered by the Commissioner or the department.

(7) Nothing in this Code section shall be construed to require an inspection warrant when a warrantless inspection is authorized by law or a permit issued under this title or any other law administered by the Commissioner or the department.

History

Code 1981, § 2-2-11, enacted by Ga. L. 1989, p. 390, § 1.

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O.C.G.A. § 2-2-12

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 2
Department of Agriculture (§§ 2-2-1 — 2-2-13)**

2-2-12. Assistance to United States Department of Agriculture in inspection, certification, and identification of agricultural products and collection of fees.

(a) It is the intent of this Code section to authorize the department to assist the United States Department of Agriculture, pursuant to the federal Agricultural Marketing Act of 1946, 7 U.S.C. Sections 1621-1627, in the inspection and certification of products in commerce to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire.

(b) The department is authorized to assist the United States Department of Agriculture in the inspection, certification, and identification of the class, quality, quantity, and condition of agricultural products when shipped or received in commerce, under such rules as the secretary of agriculture may prescribe, including collection of such fees as will be reasonable and as will cover the cost of the service rendered. Such fees shall not be considered taxes, fees, or assessments for state purposes but shall be collected under authority of the federal Agricultural Marketing Act of 1946 for purposes of assisting the United States Department of Agriculture in carrying out its mission under said act.

(c) The department may enter into cooperative agreements with the United States Department of Agriculture and with any firm, corporation, association, or organization having the capacity to contract for the purpose of assisting the United States Department of Agriculture in the inspection, certification, and identification of the class, quality, quantity, and condition of agricultural products when shipped or received in commerce and in the collection of such fees as will be reasonable and as will cover the cost of the service rendered.

History

Code 1981, § 2-2-12, enacted by Ga. L. 1993, p. 327, § 1.

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O.C.G.A. § 2-2-13

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 2
Department of Agriculture (§§ 2-2-1 — 2-2-13)**

2-2-13. Enforcement of laws and rules within jurisdiction of Commissioner; employment of investigators.

(a) The Commissioner shall be vested with police powers to enforce those laws governing matters within the jurisdiction of the Commissioner or the department as provided by this title and Titles 4, 10, 26, and 43 and the rules and regulations adopted pursuant thereto and to prevent, detect, and respond to acts of bioterrorism, other terroristic acts or threats, or natural disasters affecting or potentially affecting plants, animals, products, or facilities that are subject to regulation by the department.

(b) The Commissioner shall be authorized to employ, designate, and deputize investigators and to delegate to such employees of the department the necessary authority to enforce those laws governing matters within the jurisdiction of the Commissioner or the department as provided by this title and Titles 4, 10, 26, and 43 and the rules and regulations adopted pursuant thereto and to prevent, detect, and respond to acts of bioterrorism, other terroristic acts or threats, or natural disasters affecting or potentially affecting plants, animals, products, or facilities that are subject to regulation by the department. Employees who have been so designated by the Commissioner and who have been certified by the Georgia Peace Officer Standards and Training Council as having successfully completed the course of training required by Chapter 8 of Title 35, the "Georgia Peace Officer Standards and Training Act," shall be authorized:

(1) To carry firearms authorized or issued by the Commissioner while in the performance of their duties;

(2) To inspect plants, animals, products, or facilities when the same are subject to regulation by the department;

(3) To stop and inspect any vehicle transporting plants, animals, or products when the same are subject to regulation by the department;

(4) To inspect and require the production of health certificates, waybills, permits, or other documents required by federal or state laws, rules, regulations, or orders for the transportation of plants, animals, or products when the same are subject to regulation by the department;

(5) To protect any life or property when the circumstances demand action; and

(6) To arrest any person found to be in violation of a criminal law when enforcement of such law is authorized under this subsection.

(c) From funds appropriated or available to the department, the Commissioner shall be authorized to provide motor vehicles, uniforms, firearms, and any other equipment and supplies needed by employees of the department to carry out this Code section.

(d) This Code section shall not repeal, supersede, alter, or affect the power of any other law enforcement officer of this state or of any county, municipality, or other political subdivision of this state. At the request of the Commissioner of Agriculture, it shall be the duty of all state, county, municipal, and other law enforcement officers in this state to enforce and to assist the Commissioner and the employees and agents of the department in the enforcement of those laws governing matters within the jurisdiction of the Commissioner or the department as provided by this title and Titles 4, 10, 26, and 43.

History

Code 1981, § 4-4-5, enacted by Ga. L. 1986, p. 425, § 2; Ga. L. 1990, p. 572, § 1; Code 1981, § 2-2-13, as redesignated by Ga. L. 2008, p. 575, § 1/SB 429.

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O.C.G.A. Title 2, Ch. 4

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

CHAPTER 4 Georgia Seed Development Commission

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O.C.G.A. § 2-4-1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

2-4-1. Short title.

This chapter may be cited as the “Georgia Seed Development Act.”

History

Ga. L. 1959, p. 83, § 1.

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O.C.G.A. § 2-4-2

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

2-4-2. Seed Development Commission — Creation; corporate powers.

- (a) As used in this chapter, the term “commission” means the Georgia Seed Development Commission.
- (b) There is created a body corporate and politic and an instrumentality and public corporation of this state, to be known as the Georgia Seed Development Commission. It shall have perpetual existence. In such name, it may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts.
- (c) The commission is assigned to the Department of Agriculture for administrative purposes only, as prescribed in Code Section 50-4-3.

History

Ga. L. 1959, p. 83, § 2; Ga. L. 1972, p. 1015, § 508.

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O.C.G.A. § 2-4-3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

2-4-3. Seed Development Commission — Composition; officers; bylaws; quorum; compensation; records; audit; bonds.

(a) As used in this Code section, the term “licensee” means the designee of a holder of a license authorizing the production, conditioning, propagation, or marketing of crops, seed, turfgrass, or horticultural plants developed by the College of Agricultural and Environmental Sciences of the University of Georgia, where such license grants rights to intellectual property owned by the University of Georgia or a formally designated cooperative organization thereof.

(b) The commission shall be composed of the following 11 members:

(1)

(A) Two members to be appointed by the Governor, each of whom shall be a licensee or shall be otherwise involved in the production, conditioning, or marketing of crops, seed, turfgrass, or horticultural plants.

(B) No later than May 31, 2021, the Governor shall appoint two members as provided for in subparagraph (A) of this paragraph whose terms shall begin on July 1, 2021, and such members and their successors shall serve terms of four years. The terms of the members appointed as provided for in subparagraph (A) of this paragraph and serving as of June 30, 2021, shall terminate on that date;

(2)

(A) One member who shall be a licensee or shall be otherwise involved in the production, conditioning, or marketing of crops, seed, turfgrass, or horticultural plants, to be appointed by the Lieutenant Governor.

(B) No later than May 31, 2021, the Lieutenant Governor shall appoint a member as provided for in subparagraph (A) of this paragraph whose term shall begin on July 1, 2021, and such member shall serve a single term of five years. The successors to the member whose term ends on June 30, 2026, shall serve terms of four years that begin on July 1 of the year of their appointment. The term of the member appointed as provided for in subparagraph (A) of this paragraph and serving as of June 30, 2021, shall terminate on that date;

(3)

(A) One member who shall be a licensee or shall be otherwise involved in the production, conditioning, or marketing of crops, seed, turfgrass, or horticultural plants, to be appointed by the Speaker of the House of Representatives.

(B) No later than May 31, 2021, the Speaker of the House of Representatives shall appoint a member as provided for in subparagraph (A) of this paragraph whose term shall begin on July 1, 2021, and such member shall serve a single term of five years. The successors to the member whose term ends on June 30, 2026, shall serve terms of four years that begin on July 1 of the year of their appointment. The term of the member appointed as provided for in subparagraph (A) of this paragraph and serving as of June 30, 2021, shall terminate on that date;

O.C.G.A. § 2-4-3

(4) The Commissioner of Agriculture or his or her designee;

(5)

(A) Two representatives of the crop, seed, turfgrass, or horticultural plant industry or of farm related organizations, one of whom shall be appointed by the Senate Agriculture and Consumer Affairs Committee, and one of whom shall be appointed by the House Committee on Agriculture and Consumer Affairs. Such representatives shall be licensees or shall otherwise have knowledge of the production, conditioning, or marketing of crops, seed, turfgrass, or horticultural plants. Each committee shall make its appointment with a quorum present and a majority of those present concurring.

(B) No later than May 31, 2022, two members shall be appointed as provided for in subparagraph (A) of this paragraph whose terms shall begin on July 1, 2022, and such members shall serve a single term of six years. The successors to the two members whose terms end on June 30, 2028, shall serve terms of four years that begin on July 1 of the year of their appointment. The terms of the members appointed as provided for in subparagraph (A) of this paragraph and serving as of June 30, 2021, shall terminate on that date;

(6)

(A) One member who shall be a licensee or shall be otherwise involved in the production, conditioning, or marketing of crops, seed, turfgrass, or horticultural plants, to be appointed by the Commissioner of Agriculture.

(B) No later than May 31, 2022, the Commissioner of Agriculture shall appoint a member as provided for in subparagraph (A) of this paragraph whose term shall begin on July 1, 2022, and such member shall serve a single term of five years. The successors to the member whose term ends on June 30, 2027, shall serve terms of four years that begin on July 1 of the year of their appointment. The term of the member appointed as provided for in subparagraph (A) of this paragraph and serving as of June 30, 2021, shall terminate on that date;

(7) The dean of the College of Agricultural and Environmental Sciences of the University of Georgia;

(8) The associate dean for research of the College of Agricultural and Environmental Sciences of the University of Georgia, as a nonvoting member; and

(9)

(A) An additional nonvoting member who is a crop, seed, turfgrass, or horticultural plant breeder employed by the College of Agricultural and Environmental Sciences of the University of Georgia, appointed by the dean of the College of Agricultural and Environmental Sciences of the University of Georgia, after consultation with the commission.

(B) No later than May 31, 2022, the dean of the College of Agricultural and Environmental Sciences of the University of Georgia shall appoint a member as provided for in subparagraph (A) of this paragraph whose term shall begin on July 1, 2022, and such member shall serve a single term of five years. The successors to the member whose term ends on June 30, 2027, shall serve terms of four years that begin on July 1 of the year of their appointment. The term of the member appointed as provided for in subparagraph (A) of this paragraph and serving as of June 30, 2021, shall terminate on that date.

(c) The members of the commission shall enter upon their duties without further act or formality. The commission shall organize each odd-numbered year at the meeting next following July 1 of such year, at which time the commission shall elect one of its members as chairperson and another as vice chairperson. It shall also elect a secretary and a treasurer, who need not be members. The offices of secretary and treasurer may be combined in one person. The commission may make such bylaws for its government as it deems necessary but is under no duty to do so.

O.C.G.A. § 2-4-3

(d) Five voting members of the commission shall constitute a quorum necessary for the transaction of business, and a majority vote of those present at any meeting at which there is a quorum shall be sufficient to do and perform any action permitted the commission by this chapter. No vacancy on the commission shall impair the right of a quorum to transact any and all business of the commission.

(e) The members shall not receive compensation for their services but shall be reimbursed for actual expenses incurred in the performance of their duties.

(f) Members of the commission shall be accountable as trustees. They shall cause adequate books and records of all transactions of the commission, including records of income and disbursements of every nature, to be kept. The books and records shall be inspected and audited by the state auditor at least once in each year. The commission may require that an employee, an officer, member of the commission, or any person doing business with the commission post a bond, in an amount to be determined by the commission, for the faithful performance of the duties imposed upon such employee, officer, member of the commission, or person doing business with the commission. The principal of such bond of an officer, employee, or member of the commission shall be paid by the commission.

History

Ga. L. 1959, p. 83, § 3; Ga. L. 1980, p. 348, § 1; Ga. L. 1988, p. 426, § 1; Ga. L. 1995, p. 10, § 2; Ga. L. 2008, p. 309, § 1/SB 515; Ga. L. 2016, p. 742, § 1/HB 1030; Ga. L. 2020, p. 352, § 1/HB 894.

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O.C.G.A. § 2-4-4

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

2-4-4. Seed Development Commission — Powers and duties generally.

The commission shall have, in addition to any other powers conferred in this chapter, the following powers:

- (1) To have a seal and to alter it at its pleasure;
- (2) To acquire by purchase, lease, gift, or otherwise and to hold, lease, and dispose of, in any manner, real and personal property of every kind and character for its corporate purposes;
- (3) To appoint such additional officers, who need not be members of the commission, as the commission deems advisable; to employ such experts, agents, and employees as in its judgment may be necessary to carry on properly the business of the commission; to fix the compensation for such officers, experts, agents, and employees; and to promote and discharge them;
- (4) To make such contracts and agreements as are legitimate and necessary for the purposes of this chapter and to make all other contracts and agreements as may be necessary to the proper performance of any action permitted by this chapter;
- (5) To exercise any power granted to private corporations which is not in conflict with the Constitution and laws of this state nor with other provisions of this chapter;
- (6) To do and perform all things necessary or convenient to carry out the powers conferred upon the commission by this chapter;
- (7) To promote scientific and educational objectives in connection with the production and distribution of foundation seed stocks;
- (8) To cooperate and contract with the experiment stations of the College of Agricultural and Environmental Sciences of the University of Georgia, the Department of Agriculture of this state, the United States Department of Agriculture, and any other agency of the state or federal government in making foundation seeds of superior varieties and hybrids available in adequate quantities, according to the requirements and needs of the farmers of this state;
- (9) To receive and to be the agent for breeder's seed and other parent material distributed from the experiment stations of the College of Agricultural and Environmental Sciences of the University of Georgia and other sources;
- (10) To contract for the production and promotion of foundation seed from breeder's seed;
- (11) To purchase, process, and resell breeder's and foundation seeds from contract growers, the United States Department of Agriculture, experiment stations of the College of Agricultural and Environmental Sciences of the University of Georgia, and other breeders or from other sources, as the commission may deem necessary;
- (12) To use the net proceeds from the sale of seed for necessary buildings, equipment, supplies, and expenses, as directed by the commission;
- (13) To solicit, receive, collect, and disburse dues, funds, pledges, and other subscriptions of value in connection with carrying out the purposes of this chapter;

O.C.G.A. § 2-4-4

(14) To receive real and personal property, either by gift, grant, devise, or will, and to hold and dispose of the same in carrying out the purposes of the commission; and

(15) To buy, sell, and trade in all the elements necessary for the successful administration of the purposes of the commission.

History

Ga. L. 1959, p. 83, § 5; Ga. L. 1995, p. 10, § 2.

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O.C.G.A. § 2-4-5

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

2-4-5. Seed Development Commission — Purchase contracts.

All contracts for the purchase of supplies or equipment by the commission for any purpose whatever shall be made only after competitive sealed bids have been received.

History

Ga. L. 1959, p. 83, § 7.

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O.C.G.A. § 2-4-6

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

2-4-6. Seed Development Commission — Operation on nonprofit basis.

It is the intent and purpose of the General Assembly that the commission shall be operated on a nonprofit basis. Any and all profits earned, beyond those required as a reasonable reserve for the future operations of the commission, shall be transmitted to the state treasury.

History

Ga. L. 1959, p. 83, § 9.

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O.C.G.A. § 2-4-7

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

2-4-7. Advisory board created; members; function.

The commission may appoint an advisory board, consisting of such number and qualifications of members as the commission may determine, to advise and consult with the commission in the performance of the commission's duties. The function of such a board shall be advisory only.

History

Ga. L. 1959, p. 83, § 4; Ga. L. 1995, p. 10, § 2; Ga. L. 2008, p. 309, § 2/SB 515.

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O.C.G.A. § 2-4-8

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

2-4-8. [Reserved] Terms of office of appointed members of commission and board.

History

Ga. L. 1960, p. 1106, § 1; Ga. L. 2008, p. 309, § 3/SB 515; repealed by Ga. L. 2021, p. 614, § 1/SB 247, effective July 1, 2021.

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O.C.G.A. § 2-4-9

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > *TITLE 2 Agriculture (Chs. 1 — 23)* > *CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)*

2-4-9. Conveyance of state property to commission; consideration; reversion for nonuse.

The Governor is authorized to convey to the commission on behalf of the state any real or personal property or interest therein owned by the state in furtherance of this chapter. The consideration for such conveyance shall be determined by the Governor and expressed in the conveyance, provided that such consideration shall be nominal, the benefits going to the state and its citizens constituting full and adequate consideration. If, within one year after a conveyance by the Governor, use of the property conveyed has not been made by the commission, such property or interest shall revert to the state.

History

Ga. L. 1959, p. 83, § 6.

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O.C.G.A. § 2-4-10

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 4 Georgia Seed Development Commission (§§ 2-4-1 — 2-4-10)

2-4-10. Debt or pledge of credit of state not authorized.

Nothing contained in this chapter shall be construed in any manner as authorizing the creation of a debt of the State of Georgia or a pledge of the credit of this state.

History

Ga. L. 1959, p. 83, § 8.

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O.C.G.A. § 2-5-1

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 5
Registration, Licenses, and Permits Generally (§§ 2-5-1 — 2-5-8)***

2-5-1. Short title.

This chapter may be cited as the “Department of Agriculture Registration, License, and Permit Act.”

History

Ga. L. 1966, p. 307, § 1.

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O.C.G.A. § 2-5-2

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 5
Registration, Licenses, and Permits Generally (§§ 2-5-1 — 2-5-8)***

2-5-2. Applicability of chapter.

This chapter shall apply to all applications to the department for registrations, licenses, or permits required by law or regulation.

History

Ga. L. 1966, p. 307, § 2.

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O.C.G.A. § 2-5-3

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 5
Registration, Licenses, and Permits Generally (§§ 2-5-1 — 2-5-8)***

2-5-3. Applications — Designation of address or agent for service of process; forwarding to Secretary of State.

- (a) All applications to the department for registrations, licenses, or permits shall:
 - (1) Designate an address in this state where the applicant can be personally served with legal process;
 - (2) Contain an appointment of an agent in this state for acceptance of service of legal process, together with the agent's address in this state; or
 - (3) Contain a designation of the Secretary of State for acceptance of service of legal process.
- (b) A copy of such application shall be forwarded to the Secretary of State by the department.

History

Ga. L. 1966, p. 307, § 3.

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O.C.G.A. § 2-5-4

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 5
Registration, Licenses, and Permits Generally (§§ 2-5-1 — 2-5-8)***

2-5-4. Applications — Admission that applicant is doing business in state.

The filing of an application with the department for registration, a license, or a permit shall constitute an admission by the applicant that the applicant is doing business in this state.

History

Ga. L. 1966, p. 307, § 4.

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O.C.G.A. § 2-5-4.1

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 5
Registration, Licenses, and Permits Generally (§§ 2-5-1 — 2-5-8)***

2-5-4.1. Applications — Form of submission; payment of fees.

The department is authorized to accept applications either in writing or through available electronic media approved by the Commissioner. The payment of fees and the acceptance of such fees by the department may be accomplished in any manner, including electronic fund transfers, approved by the Commissioner.

History

Code 1981, § 2-5-4.1, enacted by Ga. L. 1997, p. 401, § 1.

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O.C.G.A. § 2-5-5

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 5
Registration, Licenses, and Permits Generally (§§ 2-5-1 — 2-5-8)**

2-5-5. Grounds for denial of registration, license, or permit; hearing.

- (a) The Commissioner may deny registration, a license, or a permit to:
- (1) Any applicant with a criminal record;
 - (2) Any applicant who is found by the Commissioner to have violated any law administered by the department or any regulation or quarantine of the department;
 - (3) A corporation, when any of its officers has a criminal record or is found by the Commissioner to have violated any law administered by the department or any regulation or quarantine of the department; or
 - (4) Any person who is less than 18 years of age on the date of his or her application.
- (b) In the case of a partnership, all parties shall be considered applicants for the purpose of this Code section.
- (c) No registration, license, or permit shall be denied under this Code section without opportunity for hearing in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

History

Ga. L. 1966, p. 307, § 5; Ga. L. 1997, p. 401, § 2.

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O.C.G.A. § 2-5-6

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 5
Registration, Licenses, and Permits Generally (§§ 2-5-1 — 2-5-8)***

2-5-6. Grounds for revocation; hearing.

The Commissioner may revoke any outstanding registration, license, or permit where the holder of the same or any officer or agent of the holder is found by the Commissioner to have violated any law administered by the department or any regulation or quarantine of the department, provided that no registration, license, or permit shall be revoked under this Code section without opportunity for hearing in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

History

Ga. L. 1966, p. 307, § 6.

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O.C.G.A. § 2-5-7

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 5
Registration, Licenses, and Permits Generally (§§ 2-5-1 — 2-5-8)***

2-5-7. Registration, license, or permit certificates as evidence thereof; republication and reissuance unnecessary.

All license, registration, and permit certificates published by the department shall, upon issuance, be permanent evidence of the pertinent licenses, registrations, and permits they are published for, until their surrender, abandonment, revocation, cancellation, or nonrenewal. No subsequent republication and reissuance of certificates for periodically renewable licenses, registrations, and permits by the department shall be necessary; provided, however, that all conditions and fees required by law for sustained effectiveness and renewal must be satisfied for continued enjoyment of the pertinent license, registration, or permit.

History

Ga. L. 1976, p. 187, § 1.

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O.C.G.A. § 2-5-8

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 5
Registration, Licenses, and Permits Generally (§§ 2-5-1 — 2-5-8)***

2-5-8. Rules and regulations.

The Commissioner shall make and publish in print or electronically such rules and regulations, not inconsistent with law, as he deems necessary to carry out the purposes of this chapter.

History

Ga. L. 1966, p. 307, § 7; Ga. L. 2010, p. 838, § 10/SB 388.

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O.C.G.A. Title 2, Ch. 7, Art. 1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 1 General Provisions (§§ 2-7-1 — 2-7-31)

Article 1 General Provisions

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O.C.G.A. § 2-7-1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 1 General Provisions (§§ 2-7-1 — 2-7-31)

2-7-1. Short title.

This article shall be known as “The Entomology Act of 1937.”

History

Ga. L. 1937, p. 659, § 1.

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O.C.G.A. § 2-7-2

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 1 General Provisions (§§ 2-7-1 — 2-7-31)

2-7-2. Definitions.

As used in this article, the term:

- (1) “Agent” means any person soliciting orders for or selling or distributing nursery stock under the partial or full control of a nurseryman or dealer.
- (2) “Dealer” means any person not a grower of nursery stock, who buys or otherwise acquires nursery stock for the purpose of reselling or distributing same independently of any control of the nurseryman.
- (3) Reserved.
- (4) “Nursery” means any grounds or premises on or in which nursery stock is grown, kept, or propagated for sale or distribution.
- (5) “Nurseryman” means any person engaged in the production of nursery stock for sale or distribution.
- (6) “Nursery stock” means all trees or plants or parts of trees or plants grown or kept for or capable of propagation, distribution, or sale.
- (7) “Persons” means individuals, associations, partnerships, and corporations, whether private, public, or municipal.
- (8) “Places” means vessels, aircraft, cars, trucks, automobiles, wagons and other vehicles, buildings, docks, depots, yards, nurseries, greenhouses, orchards, and other premises where material affected by this article is grown, produced, kept, stored, or handled.
- (8.1) “Plant pest” means any organism which is determined by the Commissioner to be injurious to the agricultural, horticultural, or other interests of the state, including, but not limited to, insects, bacteria, fungi, viruses, or weeds.
- (9) “Plants and plant products” means trees, shrubs, vines, forage and cereal plants, and all other plants, cuttings, grafts, scions, buds, and other parts of plants; and fruit, vegetables, roots, bulbs, seeds, wood, timber, and all other plant products. The term “trees” includes shade trees and all other trees except forest trees, jurisdiction as to which is vested in the State Forestry Commission, provided that the term “trees” includes nursery stock of all trees, including forestry trees.

History

Ga. L. 1937, p. 659, § 2; Ga. L. 1955, p. 309, § 25; Ga. L. 1996, p. 329, § 1.

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O.C.G.A. § 2-7-3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 1 General Provisions (§§ 2-7-1 — 2-7-31)

2-7-3. Division of Entomology established.

There is established as a division of the Department of Agriculture the Division of Entomology, which shall be under the supervision of the chief entomologist appointed pursuant to Code Section 2-7-4 and shall be subject to the control and supervision of the Commissioner.

History

Ga. L. 1959, p. 360, § 3.

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O.C.G.A. § 2-7-4

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2-7-4. Commissioner of Agriculture as ex officio state entomologist; designation of chief entomologist authorized.

- (a) The Commissioner shall be ex officio state entomologist.
- (b) The Commissioner is authorized to designate a chief entomologist, who must be a graduate of a recognized college of agriculture and shall have had courses in entomology and plant pathology and experience in field and administrative work in pest control while in the employment of one or more of the several states of the United States or in the employment of that branch of the federal government which is in charge of pest control. The chief entomologist shall serve at the pleasure of and shall be compensated in an amount determined by the Commissioner.

History

Ga. L. 1959, p. 360, § 2.

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O.C.G.A. § 2-7-5

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2-7-5. Duty of Commissioner generally.

It shall be the duty of the Commissioner to protect the agricultural, horticultural, and other interests of the state from plant pests.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 2.

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O.C.G.A. § 2-7-6

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 1 General Provisions (§§ 2-7-1 — 2-7-31)

2-7-6. Publication of information and advice.

The Commissioner may disseminate information and advice to the public on the prevention, control, or eradication of plant pests, by the publication and distribution of printed matter, by correspondence, and by other methods.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 3.

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2-7-7. Cooperative agreements.

The Commissioner may enter into cooperative arrangements with any person, municipality, county, or other department of this state and with boards, officers, and authorities of other states and of the United States for inspection with reference to plant pests and for the control and eradication thereof. The Commissioner may contribute a just and proportionate share of the expenses incurred under such arrangements.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 4.

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2-7-8. Purchases and expenditures.

The Commissioner may purchase all necessary materials, supplies, office and field equipment, and other things and may make such other expenditures as may be essential and necessary in carrying out this article, within the limits of the amount appropriated by law.

History

Ga. L. 1937, p. 659, § 4.

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O.C.G.A. § 2-7-9

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 1 General Provisions (§§ 2-7-1 — 2-7-31)

2-7-9. Investigations authorized; employment of experts; rental, lease, or purchase of land.

The Commissioner may carry on investigations of methods of control, eradication, and prevention of dissemination of plant pests and for that purpose may employ the necessary experts and may rent, lease, or purchase the necessary land, when required for this purpose.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 5.

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O.C.G.A. § 2-7-10

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2-7-10. Inspection of plants and other things capable of disseminating or carrying plant pests.

The Commissioner may inspect or cause to be inspected by duly authorized employees or agents any plants, plant products, or other articles, things, or substances that may in the Commissioner's opinion be capable of disseminating or carrying plant pests. For this purpose the Commissioner or the Commissioner's employees and agents shall have the power to enter into or upon any place and to open any bundle, package, or other container containing or thought to contain plants or plant products or other things capable of disseminating or carrying plant pests.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 6.

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O.C.G.A. § 2-7-11

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2-7-11. Nursery inspections; rules governing nursery stock and plants in transit.

- (a) The Commissioner may inspect or cause to be inspected all nurseries in this state at such intervals as the Commissioner may deem best. The Commissioner shall have a plenary power to make all rules and regulations governing nurseries and the movement of nursery stock therefrom or the introduction of nursery stock therein as the Commissioner may deem necessary in the eradication, control, or prevention of the dissemination of plant pests.
- (b) The Commissioner may also make rules and regulations:
- (1) To govern the sale and distribution of nursery stock by dealers and agents;
 - (2) Under which nursery stock may be brought into this state from other states and territories of the United States or any foreign country; and
 - (3) With reference to plants and plant products and other things and substances while in transit through this state as may be deemed necessary to prevent the introduction into, dissemination within, and establishment in this state of injurious plant pests.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 7.

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O.C.G.A. § 2-7-12

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2-7-12. Treatment, cutting, or destruction of infested trees, plants, or other things or substances.

The Commissioner may visit any section of this state in which any dangerous pest is supposed to exist and determine whether any infested trees, plants, or other things or substances are worthy of remedial treatment or shall be destroyed. The Commissioner may supervise or cause the treatment, cutting, or destruction of plants, trees, or other things or substances when deemed necessary to prevent or control the dissemination of plant pests or to eradicate same and may prescribe rules and regulations therefor.

History

Ga. L. 1898, p. 94, § 4; Civil Code 1910, § 2123; Code 1933, § 5-706; Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 8.

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2-7-13. Interception and inspection of plants, plant products, or other things or substances in transit; disposition.

The Commissioner may intercept and inspect, while in transit or after arrival at destination, all plants, plant products, or other things or substances likely to carry plant pests being moved in this state or brought into this state from another state or territory of the United States or from any foreign country. If, upon inspection, such plants, plant products, or other things or substances are found to be infested or infected with an injurious plant pest or are believed to be likely to communicate or transmit same or are being transported in violation of any of the rules and regulations of the Commissioner, then such plants, plant products, or other things or substances may be treated if necessary and released, returned to the sender, or destroyed, their disposition to be determined under rules and regulations prescribed by the Commissioner.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 9.

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O.C.G.A. § 2-7-14

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2-7-14. Demand for information; penalty.

- (a) The Commissioner may demand of any person who has plants or plant products or other things likely to carry plant pests in his or her possession to give full information as to the origin and source of the same.
- (b) It shall be a misdemeanor for a person to refuse to give the information demanded under subsection (a) of this Code section if he or she is able to do so.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 10.

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2-7-15. Declaration of public nuisance authorized.

The Commissioner may declare a dangerous plant pest, as well as any plant or other thing which has been infested or infected therewith or exposed to infestation or infection and is therefore likely to communicate the same, to be a public nuisance.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 11.

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O.C.G.A. § 2-7-16

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 1 General Provisions (§§ 2-7-1 — 2-7-31)

2-7-16. Notice of declaration of nuisance; prescription of treatment; right of appeal.

Whenever inspection discloses that any places, plants or plant products, or other things or substances are infested or infected with any dangerous plant pest which has been declared a public nuisance under this article, the Commissioner or the Commissioner's agents or employees shall give written notice to the owner or other person in possession or control of the place where such things are found, in person or by registered or certified mail or statutory overnight delivery. Such owner or other person shall proceed to control, eradicate, or prevent the dissemination of such plant pest and to remove, cut, or destroy infested or infected plants and plant products or other things or substances within the time and in the manner prescribed by the notice or the rules and regulations made pursuant to this article or to take an appeal as provided in Code Section 2-7-24.

History

Ga. L. 1898, p. 94, § 5; Civil Code 1910, § 2124; Code 1933, § 5-707; Ga. L. 1937, p. 659, § 7; Ga. L. 1996, p. 329, § 12; Ga. L. 2000, p. 1589, § 3.

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O.C.G.A. § 2-7-17

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2-7-17. Treatment of nuisance by department where owner fails to act; lien for expenses; compensation not allowed.

Whenever an owner or other person cannot be found or fails, neglects, or refuses to obey the requirements of the notice given under Code Section 2-7-16 and the rules and regulations made pursuant to this article, such requirements shall be carried out by the inspectors or other employees or agents of the department. The Commissioner shall have and enforce a lien for the expense thereof against the place in or upon which such expense was incurred, in the same manner as liens are had and enforced upon buildings and lots, wharves, and piers, for labor and materials furnished by virtue of contract with the owner. No compensation shall be allowed for any trees or plants, plant products, or other things or substances that are destroyed.

History

Ga. L. 1937, p. 659, § 8.

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O.C.G.A. § 2-7-18

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2-7-18. Judicial proceeding where owner refuses to act or to permit Commissioner to act; expenses and court costs.

In case any person or persons refuse to execute the directions of the Commissioner or refuse to allow the Commissioner or his agents to do so, the judge of the superior court of the county having jurisdiction over such person, upon complaint filed by the Commissioner or any citizen, shall cite the person or persons to appear before him within three days after notice is served. The judge may hear and determine all these cases. Upon satisfactory evidence, the judge shall cause the prescribed treatment to be executed. The expenses thereof and the costs of court shall be collected from the owner or owners of the affected material.

History

Ga. L. 1898, p. 94, § 6; Civil Code 1910, § 2125; Code 1933, § 5-708; Ga. L. 1937, p. 659, § 9.

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2-7-19. Investigation on citizens' complaint; notice to owner; treatment or destruction of affected plants or other things or substances; costs.

When two reputable citizens of any county in this state notify the Commissioner, from belief, that noxious insects or plant diseases exist in their county, the Commissioner shall ascertain as speedily as possible the nature and extent of the condition reported. If, after such investigation, it is determined by the Commissioner that it is necessary or desirable for the public interest, he shall act with all due diligence to control or eradicate such insects or plant diseases by giving notice to the owner, tenant, or agent of the owner of such premises to treat such affected plants or other things or substances according to the methods he may prescribe or to destroy them within the period set forth in such notice. If, after the expiration of the period set forth in the notice, the affected materials or other things or substances have not been destroyed or treated as prescribed in the notice or the treatment has not been properly applied or is not effectual in ridding the affected materials, things, or substances of the pests, the Commissioner shall cause such affected materials, things, or substances to be properly treated or destroyed, as his judgment warrants. The cost of the work shall be assessed against the owner of the premises and shall be collected in the same manner as that provided in Code Section 2-7-17.

History

Ga. L. 1898, p. 94, § 14; Civil Code 1910, § 2132; Code 1933, § 5-714; Ga. L. 1937, p. 659, § 10.

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O.C.G.A. § 2-7-20

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2-7-20. Declaration of quarantine; violation unlawful.

(a) The Commissioner may declare a quarantine against any area, place, nursery, grove, orchard, county, or counties within this state, other states, or territories of the United States or any portion thereof or any foreign country, in reference to dangerous plant pests and may prohibit the movement within this state or any part thereof or the introduction into this state from other states or territories of the United States or any foreign country of all plants, plant products, or other things or substances from such quarantined places or areas as are likely to carry dangerous plant pests, if such quarantine is determined by the Commissioner, after due investigation, to be necessary in order to protect the agricultural, horticultural, or other interests of this state. In such cases the quarantine may be made absolute or rules and regulations may be adopted prescribing the method and manner under which the prohibited articles may be moved into or within, sold, or otherwise disposed of within or outside the state.

(b) Whenever the Commissioner declares a quarantine against any place, nursery, grove, orchard, county, or counties of the state or against other states or territories of the United States or any foreign country, as to a dangerous plant pest, it shall be unlawful thereafter until such quarantine is removed for any person to introduce into this state or to move, sell, or otherwise dispose of within this state any plant, plant produce, or other things included in such quarantine, except under such rules and regulations as may be prescribed by the Commissioner.

History

Ga. L. 1937, p. 659, §§ 4, 13; Ga. L. 1996, p. 329, § 13.

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O.C.G.A. § 2-7-21

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2-7-21. Registration of certain growers.

The Commissioner may provide for the registration of all growers of plant or nursery stock intended for sale or distribution, when such plants or nursery stock has been declared by the Commissioner as being liable or likely to disseminate or capable of disseminating plant pests.

History

Ga. L. 1937, p. 659, § 4; Ga. L. 1996, p. 329, § 14.

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2-7-22. Assessment of costs.

For the purpose of defraying the expenses of the registration of nurserymen, dealers, agents, and plant growers and the certification and inspection of plants or plant products or other things, the Commissioner may assess and collect the cost thereof, any surplus to be paid into the state treasury.

History

Ga. L. 1937, p. 659, § 4.

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2-7-23. Promulgation of rules and regulations; publication thereof.

(a) The Commissioner may make such rules and regulations governing the conditions under which plants or other products may be produced as will permit such plants or other products to be certified as free or relatively free from plant pests.

(b) Any rules and regulations made by the Commissioner relative to the certification of tomato, cabbage, onion, and all other cruciferous plants shall be published on or before December 15 of the year preceding that in which such plants are to be grown; provided, however, that in case of emergency supplemental rules and regulations may be promulgated and published; and provided, further, that certification of tomato, cabbage, onion, and other cruciferous plants shall not be compulsory on the grower.

(c) All rules and regulations made by the Commissioner within the limits of the authority conferred by this article shall have the full force and effect of law. Printed copies of all acts, rules and regulations, quarantines, and notices of the department which are published under the authority of the Commissioner shall be admitted as sufficient evidence of such acts, rules and regulations, quarantines, or notices in all courts and on all occasions whatsoever, when the correctness of such copies is certified by the Commissioner.

History

Ga. L. 1937, p. 659, §§ 4, 5; Ga. L. 1996, p. 329, § 15.

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2-7-24. Administrative review of rules and notices.

Any person affected by any rule or regulation made or notice given pursuant to this article may have a review thereof as provided in Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” for the purpose of having such rule, regulation, or notice modified, suspended, or withdrawn.

History

Ga. L. 1937, p. 659, § 6.

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2-7-25. Required compliance with article and rules.

It shall be unlawful for any nurseryman, dealer, or agent to sell, give away, carry, ship, or deliver for carriage or shipment any nursery stock, except in compliance with this article and the rules and regulations made pursuant thereto.

History

Ga. L. 1937, p. 659, § 14.

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O.C.G.A. § 2-7-26

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2-7-26. Importation of injurious insect or plant disease without permit prohibited.

The introduction into this state of any insect injurious to plants in any stage of development or of any specimen of any disease injurious to plants, except under a special permit issued by the Commissioner, is prohibited.

History

Ga. L. 1937, p. 659, § 11.

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2-7-27. Report of violations; investigation and disposition.

Any person, including a common carrier, who receives plants, plant products, or other things or substances sold, given away, carried, shipped, or delivered for carriage or shipment within this state, as to which this article and the rules and regulations made pursuant thereto have not been complied with, shall immediately inform the Commissioner or any employee or agent of the Commissioner and shall isolate and hold the plants, plant products, or other things or substances in question unopened or unused, subject to such inspection and such disposition as may be provided by the Commissioner.

History

Ga. L. 1937, p. 659, § 12.

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2-7-28. Act of agent imputed to principal.

In construing and enforcing this article, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, corporation, or other principal within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such association, partnership, corporation, or other principal, as well as that of the individual.

History

Ga. L. 1937, p. 659, § 16.

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2-7-29. Enforcement of article generally; criminal proceedings; subpoena powers.

The Commissioner may enforce this article and the rules and regulations made pursuant hereto by injunction in the proper court as well as by criminal proceedings. It shall be the duty of the prosecuting attorneys of all courts to represent the Commissioner when called upon to do so. In the discharge of his duties and in the enforcement of the powers delegated in this article, the Commissioner may issue subpoenas for the production of evidence, require production of books and papers, administer oaths, and subpoena and hear witnesses. To this end, it is made the duty of the various sheriffs throughout this state to serve all subpoenas and other papers upon the request of the Commissioner.

History

Ga. L. 1937, p. 659, § 4.

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2-7-30. Injunctions; violations declared public nuisances.

The Commissioner may institute action to enjoin any violation of this article or any rule or regulation or quarantine promulgated under this article. A violation of this article or any rule or regulation promulgated pursuant to this article or any quarantine established pursuant hereto is declared to constitute a public nuisance. Such action for injunction may be maintained notwithstanding the existence of other legal remedies and notwithstanding the pendency or successful completion of a criminal prosecution as for a misdemeanor.

History

Ga. L. 1960, p. 255, § 1.

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2-7-31. Penalty.

Any person who violates any provision or requirement of this article or of the rules and regulations made thereunder or of any notice given pursuant thereto or who forges, counterfeits, defaces, destroys, or wrongfully or improperly uses any certificate provided for in this article or in the rules and regulations made pursuant hereto or who interferes with or obstructs any inspector or other employee or agent of the department in the performance of his duties shall be guilty of a misdemeanor.

History

Ga. L. 1937, p. 659, § 15.

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O.C.G.A. Title 2, Ch. 7, Art. 2

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Article 2 Control of Pesticides

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O.C.G.A. § 2-7-50

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 2 Control of Pesticides (§§ 2-7-50 — 2-7-73)

2-7-50. Short title.

This article shall be known as the “Georgia Pesticide Control Act of 1976.”

History

Ga. L. 1976, p. 282, § 1.

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O.C.G.A. § 2-7-51

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2-7-51. Purpose of article; legislative findings.

The purpose of this article is to regulate, in the public interest, the labeling, distribution, storage, transportation, use, and disposal of pesticides. The General Assembly finds that pesticides are valuable to this state's agricultural production and to the protection of man and the environment from insects, rodents, weeds, and other forms of life which may be pests but that it is essential to the public health and welfare that they be regulated to prevent adverse effects on human life and on the environment. New pesticides which are valuable to the control of pests and for use as defoliants, desiccants, and plant regulators are continually being discovered or synthesized. The dissemination of accurate scientific information as to the proper use of any pesticide is vital to the public health and welfare and to the environment, both immediately and in the future. Therefore, it is deemed necessary to provide for regulation of such pesticides.

History

Ga. L. 1976, p. 282, § 3.

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2-7-52. Definitions.

As used in this article, the term:

- (1) “Active ingredient” means any ingredient which will prevent, destroy, repel, control, or mitigate pests or which will act as a plant regulator, defoliant, or desiccant.
- (2) “Adulterated” shall apply to any pesticide:
 - (A) If its strength or purity falls below the professed standard of quality, as expressed on its labeling or under which it is sold;
 - (B) If any substance has been substituted wholly or in part for the pesticide; or
 - (C) If any valuable constituent of the pesticide has been wholly or in part abstracted.
- (3) “Animal” means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish.
- (4) “Antidote” means the most practical immediate treatment in case of poisoning and includes first-aid treatment.
- (5) “Beneficial insects” means those insects which, during their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.
- (6) “Commissioner” means the Commissioner of Agriculture.
- (7) “Defoliant” means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
- (8) “Desiccant” means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.
- (9) “Device” means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man and other than bacteria, viruses, or other microorganisms on or in living man or other living animals; the term does not include equipment used for the application of pesticides when such equipment is sold separately therefrom.
- (10) “Distribute” means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and, having so received, deliver or offer to deliver pesticides in this state.
- (11) “Environment” includes the water, air, and land, all plants and man and other animals living therein, and the interrelationships which exist among these.
- (12) “Environmental Protection Agency” means the United States Environmental Protection Agency.
- (13) “FIFRA” means the Federal Insecticide, Fungicide, and Rodenticide Act, and the amendments thereto.

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- (14)** “Fungi” means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other living animals and except those in or on processed food, beverages, or pharmaceuticals.
- (15)** “Highly toxic pesticide” means any pesticide determined to be a highly toxic pesticide under the authority of Section 25(c)(2) of FIFRA or by the Commissioner under paragraph (2) of subsection (a) of Code Section 2-7-63.
- (16)** “Imminent hazard” means a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings pursuant to Code Section 2-7-59 would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered under the Endangered Species Act of 1973 and any amendments thereto.
- (17)** “Inert ingredient” means an ingredient which is not an active ingredient.
- (18)** “Ingredient statement” means a statement of the name and percentage of each active ingredient in a pesticide, together with the total percentage of the inert ingredients in the pesticide. When the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic.
- (19)** “Insect” means any of the numerous small invertebrate animals generally having a body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, and flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.
- (20)** “Label” means the written, printed, or graphic matter on or attached to the pesticide or device or any of its containers or wrappers.
- (21)** “Labeling” means the label and all other written, printed, or graphic matter:
- (A)** Accompanying the pesticide or device at any time; or
 - (B)** To which reference is made on the label or in literature accompanying the pesticide or device, except for current official publications of:
 - (i)** The Environmental Protection Agency;
 - (ii)** The United States Department of Agriculture;
 - (iii)** The United States Department of the Interior;
 - (iv)** The United States Department of Health and Human Services;
 - (v)** State experiment stations;
 - (vi)** State agricultural colleges; and
 - (vii)** Other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.
- (22)** “Land” means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.
- (23)** “Nematode” means invertebrate animals of the phylum Nematelminthes and class Nematoda, that is, unsegmented roundworms with elongated, fusiform, or saclike bodies covered with cuticle and inhabiting soil, water, plants, or plant parts; they may also be called nemas or eelworms.

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- (24)** “Permit” means a written certificate issued by the Commissioner or his authorized agent, authorizing the purchase, possession, or use, or any combination thereof, of certain pesticides or pesticide uses defined in paragraphs (31) and (33) of this Code section.
- (25)** “Person” means any individual, partnership, association, fiduciary, corporation, or organized group of persons, whether or not incorporated.
- (26)** “Pest” means:
- (A)** Any insect, rodent, nematode, fungus, or weed; or
 - (B)** Any other form of terrestrial or aquatic plant or animal life or virus, bacterium, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which the Environmental Protection Agency administrator declares to be a pest under Section 25(c)(1) of FIFRA or which the Commissioner declares to be a pest under paragraph (1) of subsection (a) of Code Section 2-7-63.
- (27)** “Pesticide” means:
- (A)** Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests; and
 - (B)** Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- (28)** “Plant regulator” means any substance or mixture of substances, intended through physiological action for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of ornamental or crop plants or the produce thereof; the term shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.
- (29)** “Protect health and the environment” means protection against any unreasonable adverse effects on the environment.
- (30)** “Registrant” means a person who has registered any pesticide pursuant to this article.
- (31)** “Restricted use pesticide” means any pesticide whose label bears one or more uses which have been classified as restricted by the administrator of the Environmental Protection Agency.
- (32)** “Restricted use pesticide dealer” means any person who distributes any restricted use pesticide or any pesticide whose label bears a state restricted pesticide use to any person other than a manufacturer or distributor of pesticides.
- (33)** “State restricted pesticide use” means any pesticide use which, when carried out in accordance with label directions and other commonly recognized good practices, the Commissioner determines, subsequent to a hearing, to require additional restrictions for that use to protect the environment, including man, lands, beneficial insects, animals, crops, and wildlife, other than pests.
- (34)** “Unreasonable adverse effects on the environment” means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.
- (35)** “Weed” means any plant which grows where not wanted.
- (36)** “Wildlife” means all living things that are neither human, domesticated, nor, as defined in this article, pests, including, but not limited to, mammals, birds, and aquatic life.

History

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2-7-53. Meaning of “misbranded.”

The term “misbranded” shall apply:

- (1) To any pesticide or device subject to this article:
 - (A) If its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
 - (B) If it is an imitation of or is distributed under the name of another pesticide; or
 - (C) If any word, statement, or other information required to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or graphic matter in the labeling, or in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (2) To any pesticide:
 - (A) If the labeling does not contain a statement of the federal use classification under which the product is registered;
 - (B) If the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and which, if complied with, together with any requirements imposed under Section 3(d) of FIFRA, are adequate to protect health and the environment; or
 - (C) If the label does not bear:
 - (i) The name, brand, or trademark under which the pesticide is distributed;
 - (ii) An ingredient statement on that part of the immediate container which is presented or displayed under customary conditions of purchase, and on the outside container and wrapper of the retail package, if there is such a container and wrapper through which the ingredient statement on the immediate container cannot be clearly read, provided that the ingredient statement may appear prominently on another part of the container, as permitted pursuant to Section 2(q)(2)(A) of FIFRA if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase;
 - (iii) A warning or caution statement which may be necessary and which, if complied with together with any requirements imposed under Section 3(d) of FIFRA, would be adequate to protect health and the environment;
 - (iv) The net weight or measure of the contents;
 - (v) The name and address of the manufacturer, registrant, or person for whom manufactured; and

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- (vi) The Environmental Protection Agency registration number assigned to the pesticide and the Environmental Protection Agency establishment number if required by regulations under FIFRA;
- (D) If the pesticide contains any substance or substances in quantities highly toxic to man, unless the label bears, in addition to other label requirements:
- (i) The skull and crossbones;
 - (ii) The word "POISON" in red, prominently displayed on a background of distinctly contrasting color; and
 - (iii) A statement of a practical treatment, first aid or otherwise, in case of poisoning by the pesticide; or
- (E) If the pesticide container does not bear a registered label or does not bear a label stating that it is for "experimental use only."

History

Ga. L. 1950, p. 390, § 2; Ga. L. 1976, p. 282, § 5.

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2-7-54. Commissioner to administer article.

This article shall be administered by the Commissioner of Agriculture of this state.

History

Ga. L. 1976, p. 282, § 2.

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2-7-55. Registration required; exceptions; contents of application; fees; renewal; special local needs.

- (a) Every pesticide which is distributed in this state shall be registered with the Commissioner, subject to this article. Such registration shall be renewed annually prior to January 1, provided that registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and if the pesticide is used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under this article or if the pesticide is distributed under the provisions of an experimental use permit issued under Code Section 2-7-56; provided, further, that after all pesticides have been classified for "General Use" or "Restricted Use" as required by Section 3 of FIFRA, the Commissioner, by regulation, may require the registration of products on a multiple-year basis of two, three, four, or five years.
- (b) The applicant for registration shall file a statement with the Commissioner which shall include:
- (1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;
 - (2) The name of the pesticide;
 - (3) Other necessary information required for completion of the department's application for registration form; and
 - (4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in FIFRA.
- (c) The Commissioner, when he deems it necessary in the administration of this article, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.
- (d) The Commissioner may require a full description of the tests made and the results thereof on which the claims are based on any pesticide not registered pursuant to Section 3 of FIFRA or on any pesticide on which restrictions are being considered. The Commissioner may refuse to consider data he required of the initial registrant of a pesticide use in support of any other application for registration of that same use, unless such subsequent applicant has first obtained written permission to use such data. If data from the original registrant is considered without such permission, the Commissioner shall promptly notify such initial registrant. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered.
- (e) The Commissioner may prescribe other necessary information by regulation.
- (f) The applicant desiring to register a pesticide shall pay an annual registration fee to the Commissioner for each pesticide registered for such applicant. The amount of such fee shall be established by the Commissioner in an amount not less than \$100.00 nor more than \$200.00 per annum. All such registrations shall expire on December 31 of any one year, provided that if the Commissioner adopts a multiple-year registration period, the annual registration fee per product shall be compounded for the number of years included in the multiple-year registration. A registration for a special local need pursuant to subsection (i) of

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this Code section which is disapproved by the administrator of the Environmental Protection Agency shall expire on the effective date of the administrator's disapproval. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(g) Any registration approved by the Commissioner and in effect on December 31 or, in case a multiple-year registration period is adopted, on the last day of the registration period, for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until such time as the Commissioner notifies the applicant that the registration has been renewed or denied, in accordance with Code Section 2-7-59. Forms for reregistration shall be mailed to registrants at least 30 days prior to the due date.

(h) If the renewal of a pesticide registration is not filed prior to January 1 of any one year, or by the expiration date in the case of multiple-year registration, the applicable registration fee shall be doubled and shall be paid by the applicant before the registration renewal for that pesticide shall be issued.

(i) Provided the state is certified by the administrator of the Environmental Protection Agency to register pesticides for special local need pursuant to Section 24(c) of FIFRA, the Commissioner shall require the information set forth under subsections (b) through (e) of this Code section and, subject to the terms and conditions of that certification, shall register such pesticide if he determines that:

- (1)** Its composition is such as to warrant the proposed claims for it;
- (2)** Its labeling and other material required to be submitted comply with the requirements of this article;
- (3)** It will perform its intended function without unreasonable adverse effects on the environment;
- (4)** When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment;
- (5)** The classification for general use or restricted use is in conformity with Section 3(d) of FIFRA; and
- (6)** A special local need exists.

(j) The Commissioner shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirements of this Code section, one should not be registered in preference to the other.

History

Ga. L. 1950, p. 390, § 4; Ga. L. 1958, p. 389, § 1; Ga. L. 1976, p. 282, § 7; Ga. L. 2001, p. 900, § 1; Ga. L. 2010, p. 9, § 1-3/HB 1055.

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2-7-56. Issuance of experimental use permits; terms; revocation or modification.

(a) Provided the state is authorized by the administrator of the Environmental Protection Agency to issue experimental use permits, the Commissioner may:

- (1) Issue an experimental use permit to any person applying for an experimental use permit, if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under subsection (i) of Code Section 2-7-55. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed;
- (2) Refuse to issue an experimental use permit, if he determines that issuance of such permit is not warranted or that the pesticide use to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment;
- (3) Prescribe terms, conditions, and a period of time for the experimental use permit, which permit shall be under the supervision of the Commissioner; and
- (4) Revoke or modify any experimental use permit at any time if he finds that its terms or conditions are being violated or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

(b) Any person who has obtained an Environmental Protection Agency experimental use permit for a product to be used in this state shall, before shipping the product into this state, also secure an experimental use permit from the Commissioner. No fee shall be required for any experimental use permit issued under this article.

History

Ga. L. 1976, p. 282, § 8.

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2-7-57. Licensing of restricted use pesticide dealers required; application; fees; responsibility of dealer.

(a) It shall be unlawful for any person to act in the capacity of a restricted use pesticide dealer, as defined by this article, or to advertise as or assume to act as a restricted use pesticide dealer at any time, without first having obtained an annual license from the Commissioner, which license shall expire on December 31 of each year. A license shall be required for each location or outlet located within this state from which restricted use pesticides or pesticides with state restricted uses are distributed, provided that any manufacturer, registrant, or distributor who has no pesticide dealer outlet within this state and who distributes such pesticides directly into this state shall obtain a restricted use pesticide dealer license for his principal out-of-state location or outlet.

(b) Application for a license shall be accompanied by a \$55.00 annual license fee, shall be on a form prescribed by the Commissioner, and shall include the full name of the person applying for such license. If the applicant is a partnership, association, corporation, or organized group of persons, the full name of each member of the firm or partnership or the names of the principal officers of the association or corporation shall be given on the application. Such application shall further state the address of the outlet to be licensed, the principal business address of the applicant, and any other necessary information prescribed by the Commissioner. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(c) This Code section shall not apply to a licensed pesticide contractor who sells pesticides only as an integral part of his pesticide application service, when such pesticides are dispensed only through equipment used for such pesticide application, or to a federal, state, county, or municipal agency which provides pesticides only for its own programs.

(d) If an application for renewal of a restricted use pesticide dealer license is not filed on or prior to January 1 of any one year, an additional fee of \$15.00 shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued.

(e) Each restricted use pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's license shall be subject to denial, suspension, or revocation, after a hearing, for any violation of this article or regulations issued hereunder, whether committed by the dealer or by the dealer's officer, agent, or employee.

History

Ga. L. 1976, p. 282, § 14; Ga. L. 2010, p. 9, § 1-4/HB 1055.

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2-7-58. Denial, suspension, or revocation of license, registration, or permit.

The Commissioner is authorized to deny, suspend, or revoke any license, registration, or permit provided for in this article, subject to a hearing and in conformance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” in any case in which he finds that there has been a failure or refusal to comply with this article or regulations adopted hereunder.

History

Ga. L. 1950, p. 390, § 8; Ga. L. 1976, p. 282, § 16.

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2-7-59. Grounds for denial, suspension, or cancellation of registration of pesticides formulated to meet local needs or for seeking legal recourse against them; notice and hearing; judicial review.

- (a) Provided the state is certified by the administrator of the Environmental Protection Agency to register pesticides formulated to meet special local needs, the Commissioner may act according to the criteria set forth in this Code section in refusing to register such pesticides, in canceling or suspending registration of such pesticides, or in seeking legal recourse against such pesticides.
- (b) If it does not appear to the Commissioner that the composition of a pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with this article or regulations adopted hereunder, he shall notify the applicant of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply with this article, so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the required changes, the Commissioner may refuse to register the pesticide. The applicant may request a hearing as provided for in Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”
- (c) When the Commissioner determines that a pesticide or its labeling does not comply with this article or the regulations adopted hereunder or when necessary to prevent unreasonable adverse effects on the environment, he may cancel the registration of a pesticide or change the classification of a pesticide, after providing opportunity for a hearing in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”
- (d) When the Commissioner determines that there is an imminent hazard, he may, on his own motion, immediately suspend the registration of a pesticide in conformance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” Opportunity for a hearing shall be provided thereafter with the utmost possible expedition.
- (e) If the Commissioner determines that a federally registered pesticide, with respect to the use of such pesticide within this state, does not warrant the proposed claims for it or would cause unreasonable adverse effects on the environment, he may refuse to register the pesticide as required in Code Section 2-7-55, or, if the pesticide is registered under Code Section 2-7-55, he may cancel or suspend the registration pursuant to this Code section. If the Commissioner determines that the pesticide does not comply with FIFRA or the regulations adopted thereunder, he shall advise the Environmental Protection Agency of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply with FIFRA and suggest necessary corrections.
- (f) Any person who will be adversely affected by an order authorized in this Code section may obtain judicial review thereof in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

History

Ga. L. 1976, p. 282, § 9; Ga. L. 1982, p. 3, § 2.

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2-7-60. Subpoena powers.

The Commissioner may issue subpoenas to compel the attendance of witnesses or the production of books, documents, and records or any combination thereof in this state, in any hearing affecting the authority or privilege granted by a license, registration, or permit issued under this article.

History

Ga. L. 1976, p. 282, § 17.

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2-7-61. Records to be kept; access by Commissioner; confidentiality.

(a) Any person issued a license, permit, or registration under this article may be required by the Commissioner to keep accurate records containing the following information:

- (1) The delivery, movement, or holding of any pesticide or device, including the quantity thereof;
- (2) The date of shipment and receipt;
- (3) The name of consignor and consignee; and
- (4) Any other information necessary for the enforcement of this article, as prescribed by the Commissioner.

(b) The Commissioner shall have access to the records required in subsection (a) of this Code section at any reasonable time, in order to copy or make copies of such records, for the purpose of carrying out this article. Unless required for the enforcement of this article, the information derived from such records shall be confidential and, if summarized, shall not identify an individual person.

History

Ga. L. 1976, p. 282, § 15.

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2-7-62. Prohibited acts; exemptions.

- (a) It is unlawful for any person to distribute any of the following in this state:
- (1) Any pesticide which has not been registered pursuant to this article;
 - (2) Any pesticide, if any of the claims made for it or any of the directions for its use or any labeling differs from the representations made in connection with its registration or if the composition of the pesticide differs from its composition as represented in connection with its registration, provided that a change in the labeling or formulation of a pesticide may be made within a registration period without requiring reregistration of the product, if the registration is amended to reflect such change and if such change will not violate any provision of FIFRA or this article;
 - (3) Any pesticide, unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to such container and to the outside container or wrapper of the retail package, if there is one through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this article and the regulations adopted under this article;
 - (4) Any pesticide which has not been colored or discolored pursuant to Section 25(c)(5) of FIFRA or paragraph (6) of subsection (b) of Code Section 2-7-63;
 - (5) Any pesticide which is adulterated or misbranded or any device which is misbranded; or
 - (6) Any pesticide in containers which are unsafe due to damage.
- (b) It shall be unlawful:
- (1) To distribute any pesticide labeled for restricted uses to any person who is required by law or regulations promulgated under such law to have a permit or to be certified to use or purchase such pesticide labeled for restricted uses, unless such person or his agent to whom distribution is made has a valid permit or is certified to use or purchase the kind and quantity of such pesticide labeled for restricted uses, provided that subject to conditions established by the Commissioner, such permit may be obtained immediately prior to distribution, from any person designated by the Commissioner;
 - (2) For any person to detach, alter, deface, or destroy, wholly or in part, any label or labeling provided for in this article or regulations adopted under this article or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this article or the regulations adopted hereunder;
 - (3) For any person to use or cause to be used any pesticide in a manner inconsistent with its labeling or the regulations of the Commissioner, if those regulations further restrict the uses provided on the labeling;
 - (4) For any person to use for his own advantage or to reveal, other than to the Commissioner, to properly designated state or federal officials, to employees of the state or federal executive agencies, to the courts of the state or the federal government in response to a subpoena, to physicians, or, in emergencies, to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of Code Section 2-7-55 or any

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information judged by the Commissioner as containing or relating to trade secrets or commercial or financial information obtained by authority of this article and marked as privileged or confidential by the registrant;

(5) For any person to handle, transport, store, display, or distribute pesticides in such a manner as to endanger man and his environment or to endanger food, feed, or any other products that may be transported, stored, displayed, or distributed with such pesticides;

(6) For any person to dispose of, discard, or store any pesticides or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects or in such a manner as to pollute any water supply or waterway;

(7) For any person to refuse or otherwise fail to comply with this article or the regulations adopted hereunder.

(c) The penalties provided for violations of paragraphs (1) through (5) of subsection (a) of this Code section shall not apply to:

(1) Any carrier, while lawfully engaged in transporting pesticides or devices within this state, if such carrier, upon request, permits the Commissioner to copy all records showing the transactions in and movements of the pesticides or devices;

(2) Public officials of this state and the federal government, while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations;

(3) The manufacturer, shipper, or distributor of a pesticide for experimental use only by or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides, provided that there is a valid experimental use permit for such pesticide; or

(4) Any person who ships a substance or mixture of substances being put through tests, in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from the use of which the user does not expect to receive any benefit in pest control.

(d) No pesticide or device shall be deemed in violation of this article when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of this article shall apply.

History

Ga. L. 1950, p. 390, §§ 3, 7; Ga. L. 1976, p. 282, § 6.

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2-7-63. Powers of Commissioner generally; rules and regulations.

- (a) The Commissioner is authorized, after due notice and an opportunity for a hearing:
- (1) To declare as a pest any form of plant or animal life (other than man and other than bacteria, viruses, and other microorganisms on or in living man or other living animals) which is injurious to health or the environment;
 - (2) To determine whether pesticides registered under the authority of Section 24(c) of FIFRA are highly toxic to man. The regulations promulgated by the Environmental Protection Agency pursuant to Section 25(c)(2) of FIFRA, as issued or as hereafter amended, shall govern the Commissioner's determinations; and
 - (3) To determine pesticides and quantities of substances contained in pesticides registered for special local needs which are injurious to the environment. The Commissioner shall be guided by Environmental Protection Agency regulations in this determination.
- (b) The Commissioner is authorized, after due notice and a public hearing as provided for in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," to make appropriate regulations, where such regulations are necessary for the enforcement and administration of this article, including but not limited to regulations providing for:
- (1) The collection, examination, and reporting of samples of pesticides or devices pursuant to subsection (a) of Code Section 2-7-69;
 - (2) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;
 - (3) Labeling requirements for all pesticides required to be registered under this article, provided that such regulations shall not impose any requirements for federally registered labels in addition to or different from those required pursuant to FIFRA;
 - (4) The specification of classes of devices which shall be subject to paragraph (1) of Code Section 2-7-53;
 - (5) The determination of which pesticides with restricted uses may be distributed only by licensed restricted use pesticide dealers;
 - (6) The requirement that any pesticide registered for special local needs should be colored or discolored, if he determines that such requirement is feasible and is necessary for the protection of health and the environment. Such regulations shall be consistent with regulations promulgated by the Environmental Protection Agency pursuant to Section 25(c)(5) of FIFRA; and
 - (7) The establishment of standards for the packages, containers, and wrappings of pesticides registered for special local needs. Such regulations shall be consistent with the regulations promulgated by the Environmental Protection Agency pursuant to Section 25(c)(3) of FIFRA.

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(c) For the purpose of uniformity of requirements between the states and the federal government, the Commissioner, after a public hearing, may adopt regulations in conformity with the primary pesticide standards, particularly as to labeling, registration requirements, and issuance of experimental use permits, established by the Environmental Protection Agency or other federal or state agencies.

History

Ga. L. 1950, p. 390, § 5; Ga. L. 1976, p. 282, § 10.

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2-7-64. Delegation of duties.

All authority vested in the Commissioner by virtue of this article may be executed with like force and effect by such employees of the Department of Agriculture as the Commissioner may designate from time to time for such purposes.

History

Ga. L. 1950, p. 390, § 12; Ga. L. 1976, p. 282, § 21.

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2-7-65. Cooperation with federal and state agencies; grants-in-aid.

The Commissioner may cooperate, receive grants-in-aid, and enter into cooperative agreements with any agency of the federal government, of this state or its subdivisions, or of another state for the following purposes, without exclusion:

- (1) To secure uniformity of regulations;
- (2) To enter into cooperative agreements with the Environmental Protection Agency to register pesticides under the authority of this article and FIFRA;
- (3) To cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities or any combination thereof and to implement cooperative enforcement programs including, but not limited to, the registration and inspection of establishments;
- (4) To enter into a contract for monitoring pesticides for the national plan; and
- (5) To prepare and submit state plans to meet federal certification standards or for issuing experimental use permits.

History

Ga. L. 1950, p. 390, § 13; Ga. L. 1976, p. 282, § 22.

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2-7-66. [Reserved] Disposition of funds.

History

Ga. L. 1976, p. 282, § 23; repealed by Ga. L. 2010, p. 9, § 1-4.1, effective May 12, 2010.

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2-7-67. Publication of information.

The Commissioner may publish, in such form as he deems proper, results of analyses based on official samples as compared with the analyses guaranteed and information concerning the distribution of pesticides, provided that individual distribution information shall not be a public record.

History

Ga. L. 1976, p. 282, § 19.

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2-7-68. Designation of trade secrets by applicant; protection from public disclosure; notification of proposed release; declaratory judgment.

(a) In submitting data required by this article, the applicant may:

- (1) Clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information; and
- (2) Submit such marked material separately from other material required to be submitted under this article.

(b) Notwithstanding any other provision of this article, the Commissioner shall not make public any information which in his judgment contains or relates to trade secrets or any commercial or financial information obtained from a person and considered privileged or confidential, provided that when necessary to carry out this article, information relating to formulas of products acquired by authorization of this article may be revealed to any state or federal agency consulted or as required by law and may be revealed at a public hearing or in findings of fact issued by the Commissioner.

(c) If the Commissioner proposes to release for inspection any information which the applicant or registrant has indicated that he believes is protected from disclosure under subsection (b) of this Code section, he shall notify the applicant or registrant, in writing, by certified mail or statutory overnight delivery. The Commissioner shall not thereafter make such data available for inspection until 30 days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in an appropriate court for a declaratory judgment as to whether such information is subject to protection under subsection (b) of this Code section.

History

Ga. L. 1976, p. 282, § 20; Ga. L. 2000, p. 1589, § 3.

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2-7-69. Sampling and inspections authorized; notice of contemplated proceedings; search warrants; duty of enforcement; injunctions; written warnings authorized for minor violations.

(a) Sampling and examination of pesticides or devices shall be made under the direction of the Commissioner for the purpose of determining whether they comply with the requirements of this article. The Commissioner is authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times, in order to have access to inspect and sample labeled pesticides or devices packaged for distribution. If it appears upon inspection or examination that a pesticide or device fails to comply with this article or regulations adopted hereunder and the Commissioner contemplates instituting criminal proceedings against any person, the Commissioner shall cause appropriate notice to be given to such person. Any person so notified shall be given an opportunity, within a reasonable time, to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter, in the opinion of the Commissioner, it appears that this article or regulations adopted hereunder have been violated by such person, the Commissioner shall refer a copy of the results of the analysis or the examination of such pesticide or device to the prosecuting attorney for the county in which the violation occurred.

(b) Should the Commissioner be denied access to any land where such access was sought for the purposes set forth in this article, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for such purposes. The court, upon such application, may issue the search warrant for the purposes requested.

(c) The Commissioner is charged with the duty of enforcing the requirements of this article and the rules and regulations promulgated hereunder.

(d) In addition to any other remedy provided in this article, the Commissioner is authorized to bring an action to enjoin a violation of any provision of this article or any rule or regulation promulgated hereunder. In such an action it shall not be necessary for the Commissioner to allege or prove the absence of an adequate remedy at law.

(e) Nothing in this article shall be construed as requiring the Commissioner to report minor violations of this article for prosecution or for the institution of condemnation proceedings, when he believes that the public interest will be served best by a suitable notice of warning in writing.

History

Ga. L. 1950, p. 390, § 6; Ga. L. 1976, p. 282, § 11; Ga. L. 1980, p. 747, §§ 1, 2.

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2-7-70. Stop sale, use, or removal order.

When the Commissioner has reasonable cause to believe that a pesticide or device is being distributed, stored, transported, or used in violation of any of the provisions of this article or of any of the prescribed regulations under this article, he may issue and serve a written stop sale, use, or removal order upon the owner or custodian of any such pesticide or device. If the owner or custodian is not available for service of the order upon him, the Commissioner may attach the order to the pesticide or device and notify the owner or custodian and the registrant. The pesticide or device shall not be sold, used, or removed until this article has been complied with and until the pesticide or device has been released in writing under conditions specified by the Commissioner or until the violation has been otherwise disposed of as provided in this article by a court of competent jurisdiction.

History

Ga. L. 1950, p. 390, § 10; Ga. L. 1976, p. 282, § 12.

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2-7-71. Judicial actions after stop sale, use, or removal order generally; injunctions; condemnation; disposition of condemned pesticide or device; costs and expenses.

(a) After service of a stop sale, use, or removal order is made upon any person, either that person, the registrant, or the Commissioner may file an action in a court of competent jurisdiction in the appropriate county for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions, mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device which does not meet the requirements of this article or regulations adopted hereunder.

(b) If the pesticide or device is condemned, after entry of decree it shall be disposed of by destruction or sale as the court directs; and if such pesticide or device is sold, the proceeds, less costs, including legal costs, shall be retained pursuant to the provisions of Code Section 45-12-92.1, provided that the pesticide or device shall not be sold contrary to this article or regulations adopted hereunder. Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be disposed of unlawfully, the court may direct that the pesticide or device be delivered to the owner thereof for relabeling, reprocessing, removal from the state, or otherwise bringing the product into compliance.

(c) When a decree of condemnation is entered against a pesticide or device, court costs, fees, storage, and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide.

History

Ga. L. 1950, p. 390, § 11; Ga. L. 1976, p. 282, § 13; Ga. L. 2010, p. 9, § 1-4.2/HB 1055.

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2-7-72. Effect of article on certain other laws.

No provision of this article shall authorize any person to violate any law or any rules or regulations adopted and promulgated thereunder, the administration and enforcement of which are assigned to the Department of Natural Resources or any division thereof or to the Coastal Marshlands Protection Committee. This article shall not be construed as repealing, preempting, modifying, or limiting the authority or functions assigned to the Department of Natural Resources or its divisions or officials or to the Coastal Marshlands Protection Committee.

History

Ga. L. 1976, p. 282, § 24.

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2-7-73. Penalties.

Any person who violates any provision of this article or of the regulations adopted hereunder shall be guilty of a misdemeanor.

History

Ga. L. 1950, p. 390, § 8; Ga. L. 1976, p. 282, § 18.

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O.C.G.A. Title 2, Ch. 7, Art. 3

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Article 3 Use and Application of Pesticides

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O.C.G.A. § 2-7-90

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 3 Use and Application of Pesticides (§§ 2-7-90 — 2-7-114)

2-7-90. Short title.

This article shall be cited as the “Georgia Pesticide Use and Application Act of 1976.”

History

Ga. L. 1972, p. 849, § 1; Ga. L. 1976, p. 369, § 1.

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O.C.G.A. § 2-7-91

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 3 Use and Application of Pesticides (§§ 2-7-90 — 2-7-114)

2-7-91. Purpose of article; legislative findings.

The purpose of this article is to regulate, in the public interest, the use and application of pesticides to control pests, as defined in this article. Pesticides perform a valuable role by:

- (1) Controlling insects, fungi, nematodes, rodents, and other pests which ravage and destroy our supply of food and fiber, which serve as vectors of disease, and which otherwise constitute a nuisance in the environment or the home;
- (2) Controlling weeds which compete in the production of food and fiber and which otherwise are unwanted elements in our environment; and
- (3) Regulating plant growth to enhance both the quantity and quality of our supply of food and fiber and to facilitate its harvest.

New pesticides are continually being discovered, synthesized, or developed which are valuable for the control of pests and for use as defoliants, desiccants, plant regulators, and related purposes. However, such pesticides may be ineffective, may cause injury to man, or may cause unreasonable adverse effects on the environment if not properly used. Pesticides may injure man or animals, either by direct poisoning or by gradual accumulation of pesticide residues in the tissues. Crops or other plants may also be injured by the improper use of pesticides. The drifting or washing of pesticides into streams or lakes may cause appreciable damage to aquatic life. A pesticide applied for the purpose of killing pests in a crop which is not itself injured by the pesticide may drift and injure other crops or nontarget organisms with which it comes in contact. Therefore, it is deemed necessary to provide for regulation of the use and application of such pesticides.

History

Ga. L. 1972, p. 849, § 3; Ga. L. 1976, p. 369, § 3.

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2-7-92. Definitions.

As used in this article, the term:

- (1) “Animal” means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish.
- (2) “Beneficial insects” means those insects which, during their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.
- (3) “Board” means the Pesticide Advisory Board.
- (4) “Certified applicator” means any individual who is certified under this article to use or supervise the use of any restricted use pesticide restricted to use by certified applicators or any state restricted pesticide use restricted to use by certified applicators.
- (5) “Commercial applicator” means any individual:
 - (A) Who is not a “private applicator,” who uses or supervises the use of any restricted use pesticide restricted to use by certified applicators or any state restricted pesticide use restricted to use by certified applicators; or
 - (B) Who uses or supervises the use of any other pesticide for a pesticide contractor, as an employee or otherwise.
- (6) “Defoliant” means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
- (7) “Desiccant” means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.
- (8) “Environment” includes the water, air, and land, all plants and man and other animals living therein, and the interrelationships which exist among these.
- (9) “Environmental Protection Agency” means the United States Environmental Protection Agency.
- (10) “Equipment” means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land but shall not include any pressurized hand-sized household apparatus used to apply any pesticide or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.
- (11) “FIFRA” means the Federal Insecticide, Fungicide, and Rodenticide Act, and the amendments thereto.
- (12) “Fungi” means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as, for example, rusts, smuts, mildews, molds, yeasts, and

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bacteria, except those on or in living man or other living animals and except those in or on processed food, beverages, or pharmaceuticals.

(13) "Insect" means any of the numerous small invertebrate animals generally having a body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, and flies, and other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

(14) "Label" means the written, printed, or graphic matter on or attached to the pesticide or device or any of its containers or wrappers.

(15) "Labeling" means the label and all other written, printed, or graphic matter:

(A) Accompanying the pesticide or device at any time; or

(B) To which reference is made on the label or in literature accompanying the pesticide or device, except for current official publications of:

(i) The Environmental Protection Agency;

(ii) The United States Department of Agriculture;

(iii) The United States Department of the Interior;

(iv) The United States Department of Health and Human Services;

(v) State experiment stations;

(vi) State agricultural colleges; and

(vii) Other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(16) "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(17) "Nematode" means invertebrate animals of the phylum Nemathelminthes and class Nematoda, that is, unsegmented roundworms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; they may also be called nemas or eelworms.

(18) "Permit" means a written certificate issued by the Commissioner or his authorized agent, authorizing the purchase, possession, or use of certain pesticides or pesticide uses defined in paragraphs (26) and (27) of this Code section.

(19) "Person" means any individual, partnership, association, fiduciary, corporation, or organized group of persons, whether or not incorporated.

(20) "Pest" means:

(A) Any insect, rodent, nematode, fungus, or weed; or

(B) Any other form of terrestrial or aquatic plant or animal life or virus, bacterium, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals,

which the Environmental Protection Agency administrator declares to be a pest under Section 25(c)(1) of FIFRA or which the Commissioner declares to be a pest under subsection (f) of Code Section 2-7-97.

(21) "Pesticide" means:

(A) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests; and

(B) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(22) “Pesticide contractor” means any person who engages in the business of contracting for the application of any pesticide to the lands of another.

(23) “Plant regulator” means any substance or mixture of substances intended through physiological action for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of ornamental or crop plants or the produce thereof; the term shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(24) “Private applicator” means any individual who purchases, uses, or supervises the use of any restricted use pesticide restricted to use by certified applicators or any state restricted pesticide use restricted to use by certified applicators, for purposes of producing any agricultural or forestry commodity on property owned or rented by him or his employer or, if applied without compensation other than the trading of personal services between producers of agricultural and forestry commodities, on the property of another person.

(25) “Protect health and the environment” means to protect against any unreasonable adverse effects on the environment.

(26) “Restricted use pesticide” means any pesticide whose label bears one or more uses which have been classified as restricted by the administrator of the Environmental Protection Agency.

(27) “State restricted pesticide use” means any pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the Commissioner determines, subsequent to a hearing, to require additional restrictions for that use to protect the environment, including man, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(28) “Under the direct supervision of a certified applicator” means that, unless otherwise prescribed by its labeling or regulations of the Commissioner, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(29) “Unreasonable adverse effects on the environment” means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(30) “Weed” means any plant which grows where not wanted.

(31) “Wildlife” means all living things that are neither human, domesticated, nor, as defined in this article, pests, including, but not limited to, mammals, birds, and aquatic life.

History

Ga. L. 1972, p. 849, § 4; Ga. L. 1976, p. 369, § 4; Ga. L. 1994, p. 97, § 2.

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2-7-93. Commissioner to administer article; appointment of Pesticide Advisory Board.

This article shall be administered by the Commissioner of Agriculture of this state. In the administration of this article the Commissioner shall appoint a Pesticide Advisory Board for the purpose of advising him on all matters relating to pesticides and their use and application.

History

Ga. L. 1972, p. 849, § 2; Ga. L. 1976, p. 369, § 2.

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2-7-94. Delegation of duties.

The functions vested in the Commissioner by this article may be delegated by him to such employees or agents of the department as the Commissioner may from time to time designate for such purposes.

History

Ga. L. 1972, p. 849, § 22; Ga. L. 1976, p. 369, § 24.

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2-7-95. Publication of information; instruction.

The Commissioner may cooperate with educational institutions and other state or federal agencies in publishing information and conducting short courses of instruction in the areas of knowledge required by this article.

History

Ga. L. 1972, p. 849, § 18; Ga. L. 1976, p. 369, § 20.

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2-7-96. Cooperative agreements; grants-in-aid.

The Commissioner may cooperate, receive grants-in-aid, and enter into agreements with any agency of the federal government, of this state or its subdivisions, or of another state, to obtain assistance in the implementation of this article, in order to:

- (1) Secure uniformity of regulations;
- (2) Cooperate in the enforcement of the federal pesticide control laws through the use of personnel and facilities of the state or the federal government or both and implement cooperative enforcement programs;
- (3) Develop and administer state plans for training and for certification of certified applicators consistent with federal standards;
- (4) Contract for training with other agencies for the purpose of training certified applicators;
- (5) Prepare and submit state plans to meet federal certification standards, as provided for in Section 4 of FIFRA; and
- (6) Regulate certified applicators.

History

Ga. L. 1972, p. 849, § 23; Ga. L. 1976, p. 369, § 9.

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2-7-97. Promulgation of rules and regulations authorized; notice and hearing; restricted use pesticide classifications and state restricted pesticide uses; declaration of pests; reports to Environmental Protection Agency.

(a) The Commissioner shall administer and enforce this article. He shall have authority to issue regulations to carry out this article, after a public hearing following due notice to all interested persons, in conformance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” Such regulations may prescribe methods to be used in the application of pesticides. When the Commissioner finds that such regulations are necessary to carry out the purpose and intent of this article, such regulations may relate to the time, place, manner, methods, materials, and amounts and concentrations in connection with the application of pesticides; they may restrict or prohibit the use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the Commissioner deems necessary to prevent damage or injury by drift or misapplication to:

- (1) Plants, including forage plants, or adjacent or nearby lands;
- (2) Wildlife in the adjoining or nearby areas;
- (3) Fish and other aquatic life in waters in reasonable proximity to the area to be treated; and
- (4) Humans, animals, or beneficial insects.

(b) In issuing such regulations, the Commissioner shall give consideration to pertinent research findings and recommendations of other agencies of this state or of the federal government. The Commissioner may require, by regulation, that notice of a proposed application of a pesticide be given to land owners in designated areas if he finds that such notice is necessary to carry out the purpose of this article.

(c) For the purpose of uniformity and in order to enter into cooperative agreements, the Commissioner may adopt “restrictive use pesticide” classifications as determined by the Environmental Protection Agency. In addition to those “restricted use pesticides” classified by the administrator of the Environmental Protection Agency, the Commissioner also may determine, by regulation, after a public hearing following due notice, “state restricted pesticide uses” for the state or for designated areas within the state. If the Commissioner determines that a pesticide use, when applied in accordance with its directions for use, warnings, cautions, and for uses for which it is registered, may cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticide, the pesticide use shall be applied only by or under the direct supervision of a certified applicator or shall be subject to such other restrictions as the Commissioner may determine.

(d) Regulations adopted under this article shall not permit any pesticide use which is prohibited by FIFRA and any regulations or orders issued thereunder.

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- (e) Regulations adopted under this article as to certified applicators of “restricted use pesticides” as designated under FIFRA shall not be inconsistent with the requirements of FIFRA and any regulations promulgated thereunder.
- (f) The Commissioner, after notice and opportunity for hearing, is authorized to declare any form of plant or animal life, other than man and other than bacteria, viruses, and other microorganisms on or in living man or other living animals, which is injurious to health or the environment to be a pest.
- (g) In order to comply with Section 4 of FIFRA, the Commissioner is authorized to make such reports to the Environmental Protection Agency, in such form and containing such information, as the agency may from time to time require.

History

Ga. L. 1972, p. 849, § 5; Ga. L. 1976, p. 369, § 5; Ga. L. 1982, p. 3, § 2.

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2-7-98. Classification of certifications and licenses; standards for certification of applicators.

- (a) The Commissioner may classify or subclassify certifications or licenses to be issued under this article, as may be necessary for the effective administration and enforcement of this article. Each classification shall be subject to separate requirements, provided that no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for certified commercial pesticide applicators by the Commissioner under the authority of this Code section.
- (b) The Commissioner, in promulgating regulations under this article, shall prescribe standards for the certification of applicators of pesticides. Such standards may relate to the use and handling of pesticides or to the use and handling of the pesticide or class of pesticides covered by the individual's certification and shall be relative to the hazards involved.
- (c) In determining standards, the Commissioner shall consider:
- (1) The characteristics of the pesticide formulation, such as the acute dermal and inhalation toxicity and the persistence, mobility, and susceptibility to biological concentration;
 - (2) The use experience which may reflect an inherent misuse or an unexpected good safety record which does not always follow laboratory toxicological information;
 - (3) The relative hazards or patterns of use, such as granular soil applications, ultralow volume or dust aerial applications, or air blast sprayer applications; and
 - (4) The extent of the intended use.

Further, the Commissioner shall take into consideration the standards of the Environmental Protection Agency and is authorized to adopt such standards by regulation.

History

Ga. L. 1972, p. 849, § 6; Ga. L. 1976, p. 369, § 6.

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2-7-99. Licensing requirements; applications; issuance; fees; renewal.

(a) Pesticide contractor's license.

(1) Required; additional requirement; fee. No person shall engage in the business of contracting for the application of any pesticide to the lands of another within this state at any time without a pesticide contractor's license issued by the Commissioner for each business location. In addition to the pesticide contractor's license, each business location must maintain, in full-time employment during all periods of operation, at least one certified commercial pesticide applicator. The Commissioner shall require an annual fee of \$55.00 for each pesticide contractor's license issued. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(2) Application for license; form; content. Application for a pesticide contractor's license shall be made in writing to the Commissioner on a designated form obtained from the Commissioner's office. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations and shall include the following:

- (A)** The full name of the person applying for the license;
- (B)** If the applicant is a person other than an individual, the full name of each member of the firm or partnership or the names of the principal officers of the association, corporation, or group;
- (C)** The principal business address of the applicant in this state and elsewhere;
- (D)** If applicable, the name and address of an attorney in fact pursuant to the requirements of Chapter 5 of this title, the "Department of Agriculture Registration, License, and Permit Act";
- (E)** The model, make, horsepower, and size of any equipment used by the applicant to apply pesticides; and
- (F)** Any other necessary information prescribed by the Commissioner.

(3) Issuance. If the Commissioner finds the applicant qualified to engage in the business of contracting for the application of pesticides commercially, if the applicant files proof of financial responsibility as required under Code Section 2-7-103, and if the applicant applying for a license to contract for aerial application of pesticides has met all of the requirements of the Federal Aviation Administration and all aeronautic requirements of this state for operation of equipment described in the application, the Commissioner shall issue a pesticide contractor's license, with any necessary limitations; provided, however, commercial aerial applicators of crop protection products and pesticide contractors applying crop protection products to agricultural crops shall not be required to file proof of financial responsibility as required under Code Section 2-7-103. The license shall expire at the end of the calendar year of issue, unless it is revoked or suspended prior thereto by the Commissioner for cause.

(b) Certified pesticide applicator licenses.

(1) Certified private applicator's license.

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(A) Required; competency. No individual shall purchase, use, or supervise the use of any pesticide as a private applicator unless he is licensed as a certified private applicator or is acting under the direct supervision of an individual who is licensed as a certified private applicator. The Commissioner shall require the applicant to demonstrate his competency to apply "restricted use pesticides" safely, effectively, and in such a manner as to prevent any unreasonable adverse effects on the environment. Such determination of competency shall be made on the basis of standards and procedures approved by the Environmental Protection Agency in the "Georgia Plan for Certification of Pesticide Applicators."

(B) Application for license; form; content. Application for a license shall be made in writing to the Commissioner on a designated form obtained from the Commissioner's office. Each application shall contain information regarding the applicant's qualifications and proposed operations and shall include the following:

- (i) The name of the person applying for the license;
- (ii) The complete home address and mailing address of the applicant; and
- (iii) Any other information pertinent to the applicant's operation.

(C) Issuance. If the Commissioner finds the applicant qualified to use or supervise the use of "restricted use pesticides" as a private pesticide applicator, he shall issue such license, to be effective for a specified period which shall be determined by the Commissioner by regulation. There shall be no fee required for a certified private applicator's license.

(2) Certified commercial pesticide applicator's license.

(A) Required; competency. No individual shall purchase, use, or supervise the use of any pesticide as a commercial applicator unless he is licensed as a certified commercial applicator or is acting under the direct supervision of an individual who is licensed as a certified commercial applicator. No person shall commercially apply any pesticide by aerial equipment without a certified commercial pesticide applicator license. The Commissioner shall require the applicant to demonstrate his competency to apply pesticides safely, effectively, and without any unreasonable adverse effects on the environment. Such determination of competency shall be made on the basis of standards and procedures approved by the Environmental Protection Agency in the "Georgia Plan for Certification of Pesticide Applicators."

(B) Application for license; form; content. Application for a license shall be made in writing to the Commissioner on a designated form obtained from the Commissioner's office. Each application shall contain information regarding the applicant's qualifications and proposed operations and shall include the following:

- (i) The full name of the person applying for the license;
- (ii) The principal business address of the applicant in this state and elsewhere;
- (iii) If applicable, the name and address of an attorney in fact pursuant to the requirements of Chapter 5 of this title, the "Department of Agriculture Registration, License, and Permit Act"; and
- (iv) Any other necessary information prescribed by the Commissioner.

(C) Issuance; fees; renewal. If the Commissioner finds the applicant qualified to apply pesticides in the classification or classifications he or she has applied for, the Commissioner shall issue a certified commercial pesticide applicator's license. Effective August 21, 1980, all new certified commercial pesticide applicator licenses shall be issued for a period of five years from the date of certification. The fee for the five-year license shall be \$90.00. Licenses shall be subject to renewal on the day following expiration, based on such recertification requirements as the Commissioner may establish by regulation.

History

Ga. L. 1972, p. 849, § 7; Ga. L. 1976, p. 369, § 7; Ga. L. 1980, p. 749, §§ 1, 2; Ga. L. 1982, p. 3, § 2; Ga. L. 1990, p. 1253, § 1; Ga. L. 2010, p. 9, § 1-5/HB 1055.

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2-7-100. Reciprocal examination waiver.

The Commissioner may waive all or part of the examination requirements provided for in Code Sections 2-7-98, 2-7-99, and 2-7-111 on a reciprocal basis with any other state which has substantially the same standards.

History

Ga. L. 1972, p. 849, § 14; Ga. L. 1976, p. 369, § 16.

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2-7-101. Renewals of licenses, permits, or certifications; penalty for late renewals.

- (a) If the application for renewal of any license, permit, or certification is not filed prior to the first day of the succeeding license period, a penalty of 50 percent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license, permit, or certification is issued.
- (b) Any person holding a current valid license, permit, or certification may renew such license, permit, or certification for the next year or the next license period, subject to reexamination or such other requirements as the Commissioner may impose by regulation to ensure that applicators continue to meet the needs of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.
- (c) If a license, permit, or certification is not renewed within 60 days after the beginning of a new license period, then such licensee, permittee, or certificate holder shall be required to take another examination.

History

Ga. L. 1972, p. 849, § 8; Ga. L. 1976, p. 369, § 10.

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2-7-102. Grounds for denial, suspension, revocation, or modification of license, permit, or certification.

(a) Any licensed or unlicensed person shall be subject to prosecution or civil injunctive action for committing any of the following acts, each of which is declared unlawful; and additionally, if an applicant or the holder of any license, permit, or certification is found by the Commissioner to have committed any of the following acts, or is subject to a final order imposing a civil penalty pursuant to Section 14 of FIFRA, the Commissioner may suspend any such license, permit, or certification, pending inquiry, for not longer than ten days, and, after opportunity for a hearing, may deny, suspend, or revoke such license, permit, or certification, or modify any provision thereof:

- (1) Made false or fraudulent claims through any media misrepresenting the effect of pesticides or methods to be utilized;
- (2) Made a pesticide recommendation or use inconsistent with the labeling, the Environmental Protection Agency or Georgia state registration for that pesticide, or in violation of the Environmental Protection Agency or Georgia state restrictions on the use of that pesticide;
- (3) Applied known ineffective or improper pesticides;
- (4) Operated faulty or unsafe equipment;
- (5) Operated in a faulty, careless, or negligent manner;
- (6) Neglected or, after notice, refused to comply with this article or the rules adopted hereunder;
- (7) Refused or neglected to keep and maintain the records required by this article or to make reports when and as required;
- (8) Made false or fraudulent records, invoices, or reports;
- (9) Contracted to apply any pesticide to the lands of another without a licensed commercial pesticide applicator in full-time employment;
- (10) Used fraud or misrepresentation in making an application for or renewal of a license, permit, or certification;
- (11) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, or certification;
- (12) Aided or abetted a licensed or an unlicensed person to evade the provisions of this article, conspired with such a licensed or an unlicensed person to evade the provisions of this article, or allowed one's license, permit, or certification to be used by another person;
- (13) Made false or misleading statements, during or after an inspection, concerning any infestation or infection of pests found on land;
- (14) Impersonated any federal, state, county, or city inspector or official; or

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(15) Acted in the capacity of, or advertised as, a pesticide contractor or applicator without the required license issued by the Commissioner.

(b) The Commissioner may suspend any pesticide contractor's license or any certified commercial pesticide applicator's license, pending inquiry, for not longer than ten days and, after opportunity for a hearing, may deny, suspend, or revoke such license for a period not to exceed five years upon a finding by the Commissioner that:

(1) The applicant for or holder of such a license has been convicted of or has pleaded guilty to a violation of Code Section 16-13-31;

(2) The conviction occurred or the plea was entered on or after January 1, 1984;

(3) The conviction occurred or the plea was entered within the immediately preceding five years; and

(4) An aircraft was used in the commission of such violation.

(c) The Commissioner may suspend any pesticide contractor's license or certified commercial pesticide applicator's license or refuse to grant or renew either license upon notice to the Commissioner by either a court of competent jurisdiction or the child support agency within the Department of Human Services that:

(1) The applicant for or holder of either such license is not in compliance with an order for child support as defined in Code Section 19-6-28.1 or 19-11-9.3; and

(2) The hearings and appeals procedures provided in Code Section 19-6-28.1 or 19-11-9.3, where applicable, shall be the only such procedures required under this article.

(d) The Commissioner shall not suspend any pesticide contractor's license or certified commercial pesticide applicator's license or refuse to grant or renew either license because an applicant for or holder of either such license is a borrower in default who is not in satisfactory repayment status under the Georgia Higher Education Loan Program as determined by the Georgia Higher Education Assistance Corporation or who has been certified by any entity of the federal government for nonpayment or default or breach of a repayment or service obligation under any federal educational loan, loan repayment, or service conditional scholarship program.

History

Ga. L. 1972, p. 849, § 9; Ga. L. 1976, p. 369, § 11; Ga. L. 1982, p. 3, § 2; Ga. L. 1984, p. 890, § 1; Ga. L. 1985, p. 149, § 2; Ga. L. 1996, p. 453, § 1; Ga. L. 1997, p. 143, § 2; Ga. L. 1998, p. 1094, § 1; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2019, p. 462, § 1-1/SB 214.

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2-7-103. Evidence of financial responsibility required; amount of bond, insurance, or cash deposit; notice of reduction or cancellation.

(a) Required. The Commissioner shall not issue a pesticide contractor's license until the applicant has furnished evidence of financial responsibility with the Commissioner, consisting either of a surety bond, a liability insurance policy, or a cash deposit or certification thereof, protecting persons who may suffer legal damages as a result of the operation of the applicant, provided that such surety bond, liability insurance policy, or cash deposit need not apply to damages or injury to agricultural crops, plants, or land being worked upon by the applicant.

(b) Amount; notice of reduction or cancellation by surety or insurer. The amount of surety bond, liability insurance, or cash deposit provided for in this Code section shall be set by regulation. Such surety bond, liability insurance, or cash deposit shall be maintained at not less than the minimum set by regulation at all times during the license period. The Commissioner shall be notified ten days prior to any reduction made at the request of the applicant or any cancellation of such surety bond or liability insurance by the surety or insurer. The total and aggregate liability of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy or cash deposit. The Commissioner may accept a liability insurance policy, surety bond, or cash deposit in the proper sum, which has a deductible clause in an amount not exceeding \$1,000.00 for aerial contractors and \$500.00 for all other contractors, for the total amount of liability insurance, surety bond, or cash deposit required, provided that if the applicant has not satisfied the requirement of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the Commissioner, unless such applicant furnishes the Commissioner with a surety bond, liability insurance, or cash deposit which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides. In the event that any contractor has an unpaid and outstanding judgment against him as a result of damages caused to a second party by the misuse of pesticides, he must provide a bond in an amount acceptable to the Commissioner before he can be licensed or relicensed.

(c) Personal liability for damage. Nothing in this article shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides, even though such use conforms to the rules and regulations of the Commissioner.

History

Ga. L. 1972, p. 849, § 10; Ga. L. 1974, p. 1189, §§ 1, 2; Ga. L. 1976, p. 369, § 12; Ga. L. 1980, p. 749, § 3.

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2-7-104. Records to be kept; inspection thereof.

The Commissioner shall require licensed pesticide contractors and licensed certified commercial applicators who are not employed by or otherwise acting for a licensed pesticide contractor to maintain records with respect to applications of pesticides. Such relevant information as the Commissioner may deem necessary to be recorded and maintained may be specified by regulation. Such records shall be kept for a period of time specified by the Commissioner by regulation. The Commissioner or his authorized designee shall be permitted to inspect such records during normal business hours at the place where they are maintained. Upon request in writing, the Commissioner or his authorized designee shall be furnished with a copy of such records forthwith by the licensee.

History

Ga. L. 1972, p. 849, § 12; Ga. L. 1976, p. 369, § 14.

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2-7-105. Equipment inspection; requirement of repairs or other changes.

The Commissioner may provide for inspection of any equipment used for application of pesticides. He may require repairs or other changes before its further use for pesticide application. A list of requirements which equipment must meet may be adopted by regulation.

History

Ga. L. 1972, p. 849, § 13; Ga. L. 1976, p. 369, § 15.

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2-7-106. Transportation, storage, and disposal of pesticides and pesticide containers.

No person shall transport, store, or dispose of any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects or in such a manner as to pollute any waterway in a way harmful to any wildlife therein. The Commissioner may promulgate rules and regulations governing the storing and disposal of such pesticides or pesticide containers. In determining these standards, the Commissioner shall take into consideration any regulations issued by the United States Environmental Protection Agency and any regulations issued by the Environmental Protection Division of the Department of Natural Resources of this state.

History

Ga. L. 1972, p. 849, § 16; Ga. L. 1976, p. 369, § 18.

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2-7-107. Inspections; search warrants; injunctions.

(a) For the purpose of carrying out this article, the Commissioner may enter upon any public or private premises, at reasonable times, in order to:

- (1) Have access for the purpose of inspecting any equipment subject to this article;
- (2) Inspect or sample lands actually or reported to be exposed to pesticides;
- (3) Inspect storage or disposal areas;
- (4) Inspect or investigate complaints of injury to humans or land;
- (5) Sample pesticides being applied or to be applied; or
- (6) Observe the use and application of any pesticide.

(b) Should the Commissioner be denied access to any land, where such access was sought for the purposes set forth in this article, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for such purposes. Upon such application, the court may issue a search warrant for the purposes requested.

(c) The Commissioner is charged with the duty of enforcing the requirements of this article and the rules and regulations promulgated hereunder.

(d) In addition to any other remedy provided in this article, the Commissioner is authorized to bring an action to enjoin a violation of any provision of this article or any rule or regulation promulgated hereunder. In such an action it shall not be necessary for the Commissioner to allege or prove the absence of an adequate remedy at law.

History

Ga. L. 1972, p. 849, § 21; Ga. L. 1976, p. 369, § 23; Ga. L. 1980, p. 749, §§ 4, 5.

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2-7-108. Subpoena powers.

The Commissioner may issue subpoenas to compel the attendance of witnesses and the production of books, documents, and records anywhere in this state in any hearing affecting the authority or privilege granted by a license, certification, or permit issued under this article.

History

Ga. L. 1972, p. 849, § 20; Ga. L. 1976, p. 369, § 22.

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2-7-109. Judicial review of Commissioner's actions.

Any person aggrieved by any action of the Commissioner may obtain judicial review thereof in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History

Ga. L. 1972, p. 849, § 17; Ga. L. 1976, p. 369, § 19.

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2-7-110. Reports of pesticide accidents; claim of damage; notification; inspection; effect of failure to file; failure to permit observation as bar to claim.

(a) The Commissioner by regulation may require the reporting of significant pesticide accidents or incidents.

(b) Any person claiming damages from a pesticide application shall file with the Commissioner, on a form prescribed by the Commissioner, a written statement claiming that he has been damaged. This report shall be filed within 60 days after the date that damages occur. If a growing crop is alleged to have been damaged, the report must be filed prior to the time that 25 percent of the crop has been harvested. Such statement shall contain, but shall not be limited to, the name of the person allegedly responsible for the application of the pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damage is alleged to have occurred, and the date on which the alleged damage occurred. The Commissioner shall prepare a form to be furnished for use in such cases. Such form shall also contain such other requirements as the Commissioner may deem proper. Upon receipt of such statement, the Commissioner shall notify the licensee and the owner or lessee of the land or other person who may be charged with responsibility for the damages claimed and shall furnish such copies of the statement as may be requested. The Commissioner shall inspect damages whenever possible. When he determines that a complaint has sufficient merit, he shall make such information available to the person claiming damages and to the person who is alleged to have caused the damage.

(c) The filing of a report as prescribed in subsection (b) of this Code section or the failure to file such a report need not be alleged in any complaint which might be filed in a court of law; nor shall the failure to file a report be considered any bar to the maintenance of any criminal or civil action.

(d) The failure to file a report as prescribed in subsection (b) of this Code section shall not be a violation of this article. However, if the person failing to file such report is the only one injured from the use or application of a pesticide by others, the Commissioner, when in the public interest, may refuse to hold a hearing for the denial, suspension, or revocation of a license or permit issued under this article until such report is filed.

(e) Where damage is alleged to have occurred, the claimant shall permit the Commissioner and the licensee and his representatives, including the bondsman and the insurer, to observe, within reasonable hours, the lands or nontarget organism alleged to have been damaged, in order that such damage may be examined. Failure of the claimant to permit such observation and examination of the damaged lands shall automatically bar the claim against the licensee.

History

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2-7-111. Applicability of article to governmental entities; liability of such entities.

- (a) All state agencies, municipal corporations, and other governmental agencies shall be subject to this article and rules adopted hereunder concerning the application and use of pesticides.
- (b) Employees of agencies listed in subsection (a) of this Code section who use or supervise the use of restricted use pesticides restricted to use by certified applicators or state restricted pesticide uses restricted to use by certified applicators shall be subject to the requirements provided for in paragraph (2) of subsection (b) of Code Section 2-7-99, provided that the Commissioner shall issue a limited license without a fee to such public applicator who has qualified for such license. Such license shall be valid only when such applicator is acting as an applicator applying or supervising application of pesticides used by such entities. Government research personnel shall be exempt from this licensing requirement when applying pesticides, other than restricted use pesticides restricted to use by certified applicators or state restricted pesticide uses restricted to use by certified applicators, to experimental plots only. Individuals licensed pursuant to this subsection shall be certified commercial applicators for the use of “restricted use pesticides” covered by the applicant’s classification.
- (c) Such governmental agencies and municipal corporations shall be subject to legal recourse by any person damaged by the application of any pesticide. Such action may be brought in the county where the damage or some part thereof occurred.

History

Ga. L. 1976, p. 369, § 8.

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2-7-112. Exemptions from article.

(a) Farmers. Code Section 2-7-99, relating to licenses and requirements for their issuance, shall not apply to any farmer applying pesticides classified for general use for himself or for his farmer neighbors, provided that:

- (1)** He operates farm property and operates and maintains pesticide application equipment primarily for his own use;
- (2)** He is not regularly engaged in the business of applying pesticides for hire, amounting to a principal or regular occupation, and he does not publicly hold himself out as a pesticide contractor; and
- (3)** He operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his neighbors.

(b) Veterinarians. Paragraph (2) of subsection (b) of Code Section 2-7-99, relating to license and requirements for their issuance, shall not apply to a doctor of veterinary medicine applying pesticides to animals during the normal course of his veterinary practice, provided that he is not regularly engaged in the business of applying pesticides for hire, amounting to a principal or regular occupation, and does not publicly hold himself out as a pesticide contractor.

(c) Experimental research. Code Section 2-7-99, relating to licenses and requirements for their issuance, shall not apply to research personnel applying pesticides, other than restricted use pesticides restricted to use by certified applicators or state restricted pesticide uses restricted to use by certified applicators, only to bona fide experimental plots.

(d) Persons subject to Structural Pest Control Act. Persons subject to Chapter 45 of Title 43, the “Structural Pest Control Act,” are exempt from this article and the regulations issued hereunder with respect to any activities which are regulated under Chapter 45 of Title 43.

History

Ga. L. 1972, p. 849, § 15; Ga. L. 1976, p. 369, § 17.

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O.C.G.A. § 2-7-113

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 3 Use and Application of Pesticides (§§ 2-7-90 — 2-7-114)

2-7-113. Effect of article on certain other laws.

No provision of this article shall authorize any person to violate any of the provisions of any law or any rules or regulations adopted and promulgated thereunder, the administration and enforcement of which is assigned to the Department of Natural Resources or any division therein or to the Coastal Marshlands Protection Committee. This article shall not be construed as repealing, preempting, modifying, or limiting the authority or functions assigned to the Department of Natural Resources or its divisions or officials or to the Coastal Marshlands Protection Committee.

History

Ga. L. 1976, p. 369, § 25.

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O.C.G.A. § 2-7-113.1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 3 Use and Application of Pesticides (§§ 2-7-90 — 2-7-114)

2-7-113.1. Local regulation of pesticides prohibited; variances from rule or regulation of Commissioner of Agriculture.

(a) No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution relating to pesticide use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture. This provision shall in no way prohibit or impair the legal right of any county, municipal corporation, consolidated government, or other political subdivision of this state to issue business licenses or to make zoning decisions.

(b) The governing authority of any county or municipality may, by resolution, petition the Commissioner of Agriculture for a variance from a rule or regulation of the Commissioner because of special circumstances relating to the use or application of a pesticide. If such a petition is received by the Commissioner, it shall be the duty of the Commissioner to notify the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of the Agriculture and Consumer Affairs Committee and Natural Resources and the Environment Committee of the Senate and the Agriculture and Consumer Affairs Committee and the Natural Resources and Environment Committee of the House of Representatives that such petition has been received. The Commissioner shall conduct a public hearing on such petition and issue a decision on the requested variance within 60 days of the receipt of the petition. If a decision is not given within 60 days of the receipt of the petition, the variance shall automatically be granted. The Commissioner may grant a variance requested under this subsection with or without changes.

History

Code 1981, § 2-7-113.1, enacted by Ga. L. 1992, p. 3162, § 1; Ga. L. 2009, p. 303, § 2/HB 117; Ga. L. 2011, p. 752, § 2/HB 142.

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O.C.G.A. § 2-7-114

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 3 Use and Application of Pesticides (§§ 2-7-90 — 2-7-114)

2-7-114. Penalties.

Any person violating any provision of this article or any regulation adopted hereunder shall be guilty of a misdemeanor.

History

Ga. L. 1972, p. 849, § 19; Ga. L. 1976, p. 369, § 21.

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O.C.G.A. § 2-7-130

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 4 Pest Control Compact (§§ 2-7-130 — 2-7-136)

2-7-130. Enactment; text of compact.

The Pest Control Compact is enacted into law and entered into with all other jurisdictions legally joining therein. The compact is substantially as follows:

PEST CONTROL COMPACT

ARTICLE I. FINDINGS.

The party states find that:

- (a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately 25 billion dollars from the depredations of pests is virtually certain to continue, if not to increase.
- (b) Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests but all states share the inability to protect themselves fully against those pests which present serious dangers to them.
- (c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.
- (d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an Insurance Fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

Article II. Definitions.

As used in this compact, unless the context clearly requires a different construction:

- (a) "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.
- (b) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.
- (c) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (b) of this Article.
- (d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.
- (e) "Insurance Fund" means the Pest Control Insurance Fund established pursuant to this compact.

(f) "Governing Board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) "Executive Committee" means the committee established pursuant to Article V (e) of this compact.

Article III. The Insurance Fund.

There is hereby established the Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The Insurance Fund shall contain monies appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the Insurance Fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

Article IV. The Insurance Fund, Internal Operations and Management.

(a) The Insurance Fund shall be administered by a Governing Board and Executive Committee as hereinafter provided. The actions of the Governing Board and Executive Committee pursuant to this compact shall be deemed the actions of the Insurance Fund.

(b) The members of the Governing Board shall be entitled to one vote each on such Board. No action of the Governing Board shall be binding unless taken at a meeting at which a majority of the total number of votes on the Governing Board are cast in favor thereof. Action of the Governing Board shall be only at a meeting at which a majority of the members are present.

(c) The Insurance Fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the Governing Board may provide.

(d) The Governing Board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not succeed himself. The Governing Board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the Governing Board. The Governing Board shall make provision for the bonding of such of the officers and employees of the Insurance Fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Insurance Fund and shall fix the duties and compensation of such personnel. The Governing Board in its bylaws shall provide for the personnel policies and programs of the Insurance Fund.

(f) The Insurance Fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(g) The Insurance Fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the Governing Board pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Insurance Fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender.

(h) The Governing Board shall adopt bylaws for the conduct of the business of the Insurance Fund and shall have the power to amend and rescind these bylaws. The Insurance Fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

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(i) The Insurance Fund annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. The Insurance Fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the Insurance Fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

Article V. Compact and Insurance Fund Administration.

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the compact in his state; and
2. Represent his state on the Governing Board of the Insurance Fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the Governing Board of the Insurance Fund by not to exceed three representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the Governing Board or on the Executive Committee thereof.

(c) The Governing Board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the Insurance Fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of monies from the Insurance Fund. Additional meetings of the Governing Board shall be held on call of the chairman, the Executive Committee, or a majority of the membership of the Governing Board.

(d) At such times as it may be meeting, the Governing Board shall pass upon applications for assistance from the Insurance Fund and authorize disbursements therefrom. When the Governing Board is not in session, the Executive Committee thereof shall act as agent of the Governing Board, with full authority to act for it in passing upon such applications.

(e) The Executive Committee shall be composed of the chairman of the Governing Board and four additional members of the Governing Board chosen by it so that there shall be one member representing each of four geographic groupings of party states. The Governing Board shall make such geographic groupings. If there is representation of the United States on the Governing Board, one such representative may meet with the Executive Committee. The chairman of the Governing Board shall be chairman of the Executive Committee. No action of the Executive Committee shall be binding unless taken at a meeting at which at least four members of such Committee are present and vote in favor thereof. Necessary expenses of each of the five members of the Executive Committee incurred in attending meetings of such Committee, when not held at the same time and place as a meeting of the Governing Board, shall be charges against the Insurance Fund.

Article VI. Assistance and Reimbursement.

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.
2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that

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state may request the Governing Board to authorize expenditures from the Insurance Fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use monies made available from the Insurance Fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the Insurance Fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances which occasion the request for the invoking of the compact.
2. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state.
3. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefor, in connection with the eradication, control, or prevention of introduction of the pest concerned.
4. Proof that the expenditures being made or budgeted as detailed in item 3 do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in item 3 constitutes a normal level of pest control activity.
5. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of monies from the Insurance Fund in one year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.
6. Such other information as the Governing Board may require consistent with the provisions of this compact.

(d) The Governing Board or Executive Committee shall give due notice of any meeting at which an application for assistance from the Insurance Fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by paragraph (c) of this Article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the Governing Board or Executive Committee shall authorize support of the program. The Governing Board or the Executive Committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the Governing Board or Executive Committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the Executive Committee shall upon notice in writing given within 20 days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the Governing Board. Determinations of the Executive Committee shall be reviewable only by the Governing Board at one of its regular meetings, or at a special meeting held in such manner as the Governing Board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive monies from the Insurance Fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the Insurance Fund. The Governing Board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of monies from the Insurance Fund pursuant to an application of a requesting state, the Insurance Fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(i) The Insurance Fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the Insurance Fund, cooperating federal agencies, states and any other entities concerned.

Article VII. Advisory and Technical Committees.

The Governing Board may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the Governing Board or Executive Committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the Insurance Fund being considered by such Board or Committee and the Board or Committee may receive and consider the same: provided that any participant in a meeting of the Governing Board or Executive Committee held pursuant to Article VI (d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the Governing Board or Executive Committee makes its disposition of the application.

Article VIII. Relations with Nonparty Jurisdictions.

(a) A party state may make application for assistance from the Insurance Fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the Governing Board or Executive Committee in the same manner as an application with respect to a pest within a party state, except as provided in this Article.

(b) At or in connection with any meeting of the Governing Board or Executive Committee held pursuant to Article VI (d) of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the Governing Board or Executive Committee may provide. A nonparty state shall not be entitled to review of any determination made by the Executive Committee.

(c) The Governing Board or Executive Committee shall authorize expenditures from the Insurance Fund to be made in a nonparty state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The Governing Board or Executive Committee may set any conditions which it deems appropriate with respect to the expenditure of monies from the Insurance Fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the Insurance Fund with respect to expenditures and activities outside of party states.

Article IX. Finance.

(a) The Insurance Fund shall submit to the executive head or designated officer or officers of each party state a budget for the Insurance Fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the Insurance Fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the Insurance Fund shall be maintained in two accounts to be designated respectively as the "Operating Account" and the "Claims Account." The Operating Account shall consist only of those assets necessary for the administration of the Insurance Fund during the next ensuing two-year period. The Claims Account shall contain all monies not included in the Operating Account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the Insurance Fund for a period of three years. At any time when the Claims Account has reached its maximum limit or would reach its maximum limit by the addition of monies requested for appropriation by the party states, the Governing Board shall reduce its budget requests on a pro rata basis in such manner as to keep the Claims Account within such maximum limit. Any monies in the Claims Account by virtue of conditional donations, grants or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such monies are available to meet demands arising out of claims.

(d) The Insurance Fund shall not pledge the credit of any party state. The Insurance Fund may meet any of its obligations in whole or in part with monies available to it under Article IV (g) of this compact, provided that the Governing Board takes specific action setting aside such monies prior to incurring any obligation to be met in whole or in part in such manner. Except where the Insurance Fund makes use of monies available to it under Article IV (g) hereof, the Insurance Fund shall not incur any obligation prior to the allotment of monies by the party states adequate to meet the same.

(e) The Insurance Fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Insurance Fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Insurance Fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the Insurance Fund.

(f) The accounts of the Insurance Fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the Insurance Fund.

Article X. Entry Into Force and Withdrawal.

(a) This compact shall enter into force when enacted into law by any five or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article XI. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History

Code 1981, § 2-7-130, enacted by Ga. L. 1984, p. 1021, § 1; Ga. L. 1985, p. 149, § 2.

End of Document

O.C.G.A. § 2-7-131

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 4 Pest Control Compact (§§ 2-7-130 — 2-7-136)

2-7-131. Cooperation with insurance fund.

Consistent with the law of this state and within the limits of funds appropriated or otherwise available, the departments, agencies, and officers of this state may cooperate with the insurance fund established by the Pest Control Compact.

History

Code 1981, § 2-7-131, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-132. Filing of compact bylaws and amendments.

Pursuant to Article IV (h) of the Pest Control Compact, copies of bylaws and amendments thereto shall be filed with the Commissioner of Agriculture.

History

Code 1981, § 2-7-132, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-133. Compact administrator.

The compact administrator for the Pest Control Compact for this state shall be the Commissioner of Agriculture.

History

Code 1981, § 2-7-133, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-134. Request or application for assistance from insurance fund.

Within the meaning of Article VI (b) or VIII (a) of the Pest Control Compact, a request or application for assistance from the insurance fund may be made by the Governor.

History

Code 1981, § 2-7-134, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-135. Appropriation of funds; receipt and expenditure of payments.

(a) The funds necessary to carry out this article and the Pest Control Compact shall be paid from funds appropriated to or otherwise made available to the Department of Agriculture.

(b) When any payment is made to this state pursuant to the Pest Control Compact for purposes of allowing this state to undertake or intensify a control or eradication program, such payment shall be received by the department, agency, or officer expending funds or becoming liable to expend funds for such control or eradication program. Such payment shall be expended for purposes of such control or eradication program by such department, agency, or officer; and such payment need not be paid into the general fund of the state treasury.

History

Code 1981, § 2-7-135, enacted by Ga. L. 1984, p. 1021, § 1.

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2-7-136. “Executive head” defined.

As used in the Pest Control Compact, with reference to this state, the term “executive head” shall mean the Governor.

History

Code 1981, § 2-7-136, enacted by Ga. L. 1984, p. 1021, § 1.

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O.C.G.A. Title 2, Ch. 7, Art. 5

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 5 Boll Weevil Eradication (§§ 2-7-150 — 2-7-158)

Article 5 Boll Weevil Eradication

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O.C.G.A. § 2-7-150

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 5 Boll Weevil Eradication (§§ 2-7-150 — 2-7-158)

2-7-150. Short title.

This article shall be cited as the “Georgia Boll Weevil Eradication Act of 1985.”

History

Code 1981, § 2-7-150, enacted by Ga. L. 1985, p. 1079, § 1.

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2-7-151. Declaration of purpose.

The boll weevil, *Anthonomus grandis* Boheman, is declared to be a serious pest and a menace to the cotton-growing industry. The purpose of this article is to provide for the eradication of this pest.

History

Code 1981, § 2-7-151, enacted by Ga. L. 1985, p. 1079, § 1.

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2-7-152. Definitions.

As used in this article, the term:

- (1) “Bale” means a running bale of cotton averaging 500 pounds.
- (1.1) “Boll weevil” means *Anthonomus grandis* Boheman in any stage of development.
- (2) “Certificate” means a document issued by the Commissioner certifying that a regulated article is free of the boll weevil.
- (3) “Commissioner” means the Commissioner of Agriculture, any employee of the Department of Agriculture, or any other person authorized by the Commissioner to act in his or her behalf.
- (4) “Department” means the Georgia Department of Agriculture.
- (4.1) “First handler” means that person who owns or operates the gin where cotton is first delivered from the cotton grower.
- (5) “Host” means any plant, plant part, or product thereof, including cotton, which is capable of sustaining the boll weevil in the completion of any portion of its life cycle.
- (6) “Infested” means actually infested with the boll weevil or exposed to such an extent that it would be reasonable to expect that an infestation exists.
- (7) “Noncommercial cotton” means cotton intended for purposes other than processing.
- (8) “Permit” means a document issued or authorized by the Commissioner providing for the movement of regulated articles to restricted destinations for limited handling, use, or processing.
- (9) “Person” means an individual, corporation, company, society, association, or other business entity.
- (10) “Regulated article” means any article carrying or capable of carrying the boll weevil, including, but not limited to, cotton plants, seed cotton, hosts, gin trash, and equipment which may be designated by the Commissioner.

History

Code 1981, § 2-7-152, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1998, p. 1123, § 1; Ga. L. 2009, p. 439, § 1/SB 43.

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2-7-153. Administration and enforcement by Commissioner.

The Commissioner is authorized to administer and enforce the provisions of this article through the utilization of personnel and facilities of the department.

History

Code 1981, § 2-7-153, enacted by Ga. L. 1985, p. 1079, § 1.

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2-7-154. Powers of Commissioner.

The Commissioner is authorized to:

- (1) Cooperate with and, as he may deem necessary, enter into written agreements with any other agency of this state, any agency of the federal government, any agency of another state, any person who may be engaged in the growing, processing, marketing, or handling of cotton, or any other person for the purpose of cost sharing or assignment of duties and responsibilities in destroying and eradicating the boll weevil in Georgia;
- (2) Inspect or cause to be inspected by duly authorized employees or agents any land, plants, plant products, or other articles, things, or substances that may, in his opinion, be capable of disseminating or carrying the boll weevil. For this purpose, the Commissioner or his employees and agents shall have the power to enter into or upon any place and to open any bundle, package, or other container containing or thought to contain any regulated article or other item capable of disseminating or carrying the boll weevil;
- (3) Require every person growing cotton in this state to furnish, on forms supplied by the Commissioner, such information as he may require relating to the size and location of all commercial and noncommercial cotton fields or patches being grown in this state;
- (4) Quarantine this state or any portion thereof or any other state or portion thereof when, after hearing, he determines that such action is necessary to prevent or reduce the spread of the boll weevil;
- (5) Adopt, after hearing, such rules as he deems necessary to prevent or reduce the spread of the boll weevil, including but not limited to rules:
 - (A) Governing the movement of regulated articles into, out of, or within this state;
 - (B) Establishing eradication zones within the state where eradication efforts will be undertaken;
 - (C) Restricting or prohibiting the planting of cotton in eradication zones when he determines that it would jeopardize the success of the eradication effort or present a hazard to the public health or safety;
 - (D) Requiring that all growers of commercial cotton in the designated eradication zones participate in the eradication program, including cost sharing through assessment;
 - (E) Establishing penalty fees for those growers in eradication zones who fail to comply with the rules adopted by the Commissioner; or
 - (F) Imposing restrictions on pasturing of livestock, entry by humans, and location of honeybee colonies in any eradication zone which has been or is to be treated with pesticides for eradication of the boll weevil or in any other area affected by such treatments;
- (6) Enter upon any premise, property, or field within an eradication zone and treat with pesticides or destroy any volunteer or noncommercial cotton when he determines that such action is necessary to the success of the eradication efforts;

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- (7)** Require the destruction of commercial cotton in an eradication zone when it is not being grown in compliance with the rules adopted under this article; and
- (8)** Exempt from the assessment penalty requirements set forth in this article those cotton growers for whom paying the assessment penalties would impose an undue financial hardship. The Commissioner is authorized to establish, upon the recommendation of the cotton growers' organization certified pursuant to Code Section 2-7-155, a payment plan in such hardship cases. This exemption shall be implemented as follows:
- (A)** The Commissioner shall adopt rules and regulations defining the criteria to be used in determining financial hardship; provided, however, that no exemption shall be granted to any cotton grower who, after the amount of assessments and penalties otherwise due has been subtracted from his taxable net income, as defined in Code Section 48-7-27, has a net income exceeding \$15,000.00 for the year in which he seeks an exemption;
- (B)** Any cotton grower who claims an exemption shall apply on a form prescribed by the Commissioner. A separate application shall be filed for each calendar year in which a cotton grower claims an exemption. Each application shall contain an explanation of the conditions to be met for approval. An oath shall be included on the form and the form, upon completion, shall be returned to the Commissioner;
- (C)** The Commissioner shall forward all completed exemption application forms to the cotton growers' organization certified pursuant to Code Section 2-7-155. The certified growers' organization shall determine from the information contained in the application forms whether or not the applicants qualify for a hardship exemption and may recommend a payment plan to the Commissioner; and
- (D)** The certified cotton growers' organization shall notify the Commissioner of its determination, which shall be binding upon the applicants. Upon receipt of the determination of the certified cotton growers' organization, the Commissioner shall promptly notify each affected cotton grower of that determination. If an exemption has been denied, assessments and penalties for the year in which the application was made will become due at the time they would otherwise have become due had no application for exemption been filed or within 30 days after the date of the Commissioner's notice of an adverse determination, whichever is later.

History

Code 1981, § 2-7-154, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1991, p. 452, § 1.

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2-7-155. Certification of cotton growers' organization by Commissioner; effect of certification; powers of organization; liability.

(a) The Commissioner is authorized to certify a cotton growers' organization for the purpose of entering into agreements with the department, agencies of other states, the federal government, or any other person as may be necessary to carry out the purposes of this article. In applying to the Commissioner for certification, the cotton growers' organization shall demonstrate that:

- (1) It is a nonprofit organization within the meaning of Section 501(a) of the Internal Revenue Code (26 U.S.C. Section 501(a));
- (2) Membership is open to all cotton growers in this state;
- (3) It has only one class of members and each member has only one vote;
- (4) Its board of directors consists of six cotton growers elected by the membership and one employee of the department;
- (5) All books and records of account and minutes of proceedings of the organization are available for inspection or audit by the Commissioner upon request at any reasonable time; and
- (6) Any employee or agent of the organization who handles its funds is adequately bonded.

(b) If the Commissioner finds that the growers' organization meets the requirements set forth in subsection (a) of this Code section, he shall certify the organization, in writing, for the purposes of this article only, and such certification shall not affect any other organization of cotton growers established for other purposes. The Commissioner is authorized to revoke such certification if at any time the organization fails to meet the certification requirements or the purposes of this article.

(c)

- (1) The certified cotton growers' organization:
 - (A) Shall be a public corporation and may contract and be contracted with, implead and be impleaded, and complain and defend in all courts; and
 - (B) Shall be governed by a board of directors which shall name its chairman, vice chairman, and secretary and determine a quorum for the transaction of its business.
- (2) The certified cotton growers' organization is authorized to appoint advisory boards, special committees, legal counsel, and technical and clerical personnel to advise, aid, and assist the organization in the performance of its duties and to fix, if necessary, any compensation for such services.
- (3) The members, officers, and employees of the cotton growers' organization operating under this article shall not be held individually responsible in any way whatsoever to any grower or other person for errors in judgment, mistakes, or other acts of omission or commission, other than their own individual acts of dishonesty or crime. No member, officer, or employee shall be held individually responsible for any act or omission of any other member of such organization. The liability of the

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members of the growers' organization shall be several and not joint, and no member shall be liable for the default of any other member.

(4) The certified cotton growers' organization is authorized to borrow money or otherwise incur indebtedness and to expend the moneys so acquired for the purpose of destroying and eradicating the boll weevil in Georgia. Any indebtedness created pursuant to this paragraph shall be repaid from the assessments on cotton growers provided for in Code Section 2-7-156 or from other funds available to the certified cotton growers' organization and shall not constitute a debt of the State of Georgia or any department, agency, political subdivision, official, or employee thereof. Funds borrowed under this paragraph may be expended by the certified cotton growers' organization for the purpose of reducing the annual assessment or increasing the number of years over which cotton growers are required to pay assessments under this article.

History

Code 1981, § 2-7-155, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1986, p. 1086, § 1; Ga. L. 1987, p. 191, § 9.

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2-7-156. Assessment for suppression and eradication programs; conditions.

An assessment shall be levied upon all cotton growers in this state to cover, in whole or in part, the cost of boll weevil suppression and eradication programs authorized by this article, subject to the following:

- (1) All assessments imposed on cotton shall be levied on a per acre or per bale basis as determined by the Commissioner upon recommendation of the cotton growers' organization; provided, however, that the per acre assessment shall continue to be used so long as acreage certification is available to the department;
- (2) The per acre or per bale assessment, the period for which it shall be levied, and the geographical area to which the assessment applies shall be established by the Commissioner, upon recommendation by the board of directors of the cotton growers' organization;
- (3) When the assessment is imposed on a per bale basis, it shall be the duty of each first handler of cotton from cotton growers in this state to collect the assessments imposed pursuant to this article on such cotton, to file reports on forms prescribed by the Commissioner listing such sales and the name of the grower, and to remit the amounts so imposed and collected to the Commissioner within 30 days of the date of purchase of the cotton;
- (4) The Commissioner of Agriculture is authorized, and it shall be the Commissioner's duty, to receive, collect, hold in trust, and disburse all assessments and any other funds created under this article as trust funds of the cotton growers' organization, without complying with the requirements applicable to funds collected for the use and benefit of the state. Such funds shall not be required to be deposited in the state treasury and appropriated therefrom. All moneys collected by the Commissioner shall be deposited in a bank or other depository approved by the growers' organization and shall be disbursed by the Commissioner only upon the written authorization of the certified cotton growers' organization for the administration and implementation of the boll weevil eradication program. Should the eradication program be discontinued or certification of the growers' organization be revoked by the Commissioner, the assessments authorized by this article shall be discontinued on the date specified by the Commissioner and any funds remaining in its hands at such time are authorized to be paid out by the Commissioner for existing obligations and for winding up the affairs of the certified cotton growers' organization. Any funds remaining over and above those required for completing the business of the cotton growers' organization shall be paid by the Commissioner to the contributing growers on a pro rata basis;
- (5) Records maintained by the Commissioner on behalf of the certified cotton growers' organization shall be audited at least annually by the state auditor;
- (6) The Commissioner shall have a lien for the payment of assessments under this article which shall be of equal dignity with liens for taxes in favor of the state. The Commissioner is authorized to issue executions for the collection of such assessments in like manner as executions are issued for ad valorem property taxes due the state. It shall be the duty of each and every sheriff of this state and their lawful deputies, upon request of the Commissioner, to levy and collect such executions and to make their return thereof to the Commissioner in like manner as such tax executions are levied and return

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thereof made to county tax collectors and tax commissioners; provided, however, that the Commissioner shall be authorized to levy and collect his or her own executions;

(7) In addition to the lien provided in paragraph (6) of this Code section, the Commissioner shall have a special lien on cotton for payment of assessments which shall be superior to any other lien provided by law, shall arise as of the time the assessments become due and payable, and shall cover all cotton grown by or ginned from the cotton grower from the date the lien arises until such assessments are paid; provided, however, that any buyers of cotton shall take free of such lien if such buyer has not received written notice of the lien from the Commissioner. Such lien extends to the proceeds of sale received by the person who originally bought the cotton from the grower. Notice may be provided by tagging the cotton as being subject to a delinquency or by documentation in the sales agreement indicating that the cotton is subject to a delinquency. The Commissioner or the Commissioner's authorized representative is authorized and empowered to so tag the cotton wherever found. In order to enforce such liens, the Commissioner is authorized to issue an execution for the collection of delinquent assessments due the Commissioner. The execution shall be directed to all and singular sheriffs of this state and shall command them to levy upon the cotton of the cotton grower or notified initial buyer; provided, however, that the Commissioner shall be authorized to levy and collect his or her own executions. Each sheriff or the Commissioner or the Commissioner's authorized representative shall execute the execution as in cases of writs of execution from the superior courts. The Commissioner or the Commissioner's authorized representative may levy and conduct judicial sales in the manner provided by law for sales by sheriffs and constables. The special lien on cotton may also be enforced by a foreclosure action or action at law, as appropriate, brought by the Commissioner in the superior court of the county of residence of the person who originally bought the cotton from the grower. A buyer of cotton other than a person buying cotton from the grower takes free of the lien created by this paragraph.

History

Code 1981, § 2-7-156, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1986, p. 1086, § 2; Ga. L. 1990, p. 5, § 1; Ga. L. 1991, p. 452, § 2; Ga. L. 1998, p. 1123, § 2; Ga. L. 2009, p. 439, § 2/SB 43.

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2-7-156.1. [Repealed] Assessment Advisory Committee created; composition; eligibility of members; duties.

History

Code 1981, § 2-7-156.1, enacted by Ga. L. 1998, p. 1123, § 3; repealed by Ga. L. 1998, p. 1123, § 3, effective March 24, 2010.

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2-7-157. Prohibited activities.

It shall be unlawful:

- (1) To plant cotton in any eradication zone in which planting has been prohibited by the Commissioner;
- (2) To alter, forge, counterfeit, or engage in the unauthorized use of any certificate, permit, or other document provided for in this article; or
- (3) To store or handle any regulated article in the eradication zone or to move a regulated article into, through, or from the eradication zone in violation of the purposes of this article.

History

Code 1981, § 2-7-157, enacted by Ga. L. 1985, p. 1079, § 1.

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2-7-158. Penalties.

(a) Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50.00 nor more than \$1,000.00 or by imprisonment not exceeding 12 months, or both, as determined by the court.

(b) Any cotton grower or the first handler of cotton from a cotton grower who fails to pay any assessment levied under this article when due and upon reasonable notice shall be subject to a penalty of not more than \$25.00 per acre or \$12.50 per bale, such amount to be established by the Commissioner upon recommendation of the board of directors of the cotton growers' organization.

(c) Any cotton grower who fails to pay all assessments, including penalties, within 30 days from the date of notice shall be required to destroy all cotton plants growing on his or her property which are subject to assessment. Any plants not destroyed shall be deemed to be a public nuisance. In such case, the Commissioner is authorized to apply to any court of competent jurisdiction and such court shall issue judgment and order condemnation and destruction of such nuisance. The grower shall be liable for all court costs, fees, and other expenses incurred in such action.

History

Code 1981, § 2-7-158, enacted by Ga. L. 1985, p. 1079, § 1; Ga. L. 1991, p. 452, § 3; Ga. L. 1998, p. 1123, § 4; Ga. L. 2009, p. 439, § 3/SB 43.

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O.C.G.A. Title 2, Ch. 7, Art. 6

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Article 6 Liability for Use of Fertilizers, Plant Growth Regulators, or Pesticides

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2-7-170. Liability resulting from use or application of fertilizer, plant growth regulator, or pesticide; previous orders issued by Department of Agriculture and Department of Natural Resources; strict tort liability against product manufacturers.

(a) No person, firm, or corporation engaged in an agricultural, silvicultural, farming, horticultural, or similar operation, place, establishment, or facility, or any of its appurtenances, who has applied or used or arranged for the application or use of any fertilizer, plant growth regulator, or pesticide as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 135, et seq., as amended by the Federal Environmental Pesticide Control Act of 1972, 7 U.S.C. 136, et seq., and Article 2 of this chapter, known as the “Georgia Pesticide Control Act of 1976,” and Article 3 of this chapter, known as the “Georgia Pesticide Use and Application Act of 1976,” shall be responsible or liable under this title, without proof of negligence or lack of due care, for any damages, response costs, or injunctive relief relating to any direct or indirect discharge or release into, or actual or threatened pollution of, the land, waters, air, or other resources of the state that is or may be associated with or resulting from such application or use, provided that:

- (1) Such application or use was in a manner consistent with the labeling of such fertilizer, plant growth regulator, or pesticide and in accordance with acceptable agricultural management practices and all applicable state and federal laws and regulations at the time of such application or use;
- (2) The state or federal government, or any of its agencies, had approved, recommended, or permitted the application or use and there is no finding that any conditions of such approval, recommendation, or permit were violated or that warnings or limitations regarding the application or use were ignored; and
- (3) Such fertilizer, plant growth regulator, or pesticide was licensed by or registered with the state or federal government at the time of such application or use and such person, firm, or corporation knew of no special geological, hydrological, or soil type condition existing on the land which rendered such application or use likely to cause pollution. No person, firm, or corporation shall be liable based solely on ownership of the land where such application or use took place.

(b) Nothing in this article shall affect or limit any right of action of an individual against any person, firm, or corporation engaged in an agricultural or farming operation for injury to person or property resulting from such chemical application or use.

(c) All orders issued by the Department of Agriculture and the Department of Natural Resources prior to July 1, 1988, pursuant to this title and Title 12, and the liability upon which such orders are premised, if any, shall remain in effect unless the orders are otherwise revoked, amended, or modified by the Commissioner of Agriculture or the commissioner of natural resources.

(d) Nothing in this article shall be construed to prohibit any cause of action based on strict tort liability against any manufacturer of such fertilizer, plant growth regulator, or pesticide.

History

O.C.G.A. § 2-7-170

Code 1981, § 2-7-170, enacted by Ga. L. 1988, p. 1409, § 1; Ga. L. 1989, p. 502, § 1; Ga. L. 1990, p. 8, § 2.

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2-7-200. “Feral hog” defined.

As used in this article, the term “feral hog” has the meaning provided by Code Section 27-1-2.

History

Code 1981, § 2-7-200, enacted by Ga. L. 2015, p. 1352, § 3/HB 475.

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2-7-201. Transport of live feral hogs; permit required.

(a) No person shall transport live feral hogs anywhere in this state unless authorized to do so pursuant to a feral hog transport permit carried on such person while engaging in the transport of such feral hogs.

(b)

(1) Upon request by any person, the department shall issue a feral hog transport permit authorizing such person to transport live feral hogs; provided, however, that such permit shall only authorize the transportation of live feral hogs directly to slaughter, to a slaughtering facility, or to any other type of facility approved and licensed by the department, unless otherwise directed pursuant to an order issued by the state veterinarian.

(2) The cost of a feral hog transport permit shall not exceed \$15.00.

(c) The department may require a license for the operation of any facility which holds but does not slaughter live feral hogs. The cost of such license shall not exceed \$100.00.

(d) Any fees for licenses collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(e) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished as provided by Code Section 17-10-4; provided, however, that if a fine is imposed pursuant to such Code section, such fine shall be not less than \$1,500.00. In addition, any license or permit previously issued under Title 27 to any such person shall by operation of law be revoked and shall not be reissued for a period of three years after the date of conviction. Such person shall be notified of the revocation by the Department of Natural Resources either personally or by a letter sent by certified mail or statutory overnight delivery to the name and address indicated on the application for the license or permit, or both, or to the Secretary of State as provided in Code Section 27-2-24.

History

Code 1981, § 2-7-201, enacted by Ga. L. 2015, p. 1352, § 3/HB 475.

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2-7-202. Commingling feral hogs with domestic swine prohibited.

No person shall commingle feral hogs with domestic swine or hold feral hogs on any premises where domestic swine are located.

History

Code 1981, § 2-7-202, enacted by Ga. L. 2015, p. 1352, § 3/HB 475.

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2-7-203. Penalty for violation.

Except as provided in subsection (e) of Code Section 2-7-201, any person who violates any provision of this article shall be guilty of a misdemeanor.

History

Code 1981, § 2-7-203, enacted by Ga. L. 2015, p. 1352, § 3/HB 475.

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O.C.G.A. § 2-7-204

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 7 Plant Disease, Pest Control, and Pesticides (Arts. 1 — 7) > Article 7 Feral Hogs (§§ 2-7-200 — 2-7-204)

2-7-204. Promulgation of rules and regulations.

The department may promulgate all rules and regulations necessary to administer the provisions of this article.

History

Code 1981, § 2-7-204, enacted by Ga. L. 2015, p. 1352, § 3/HB 475.

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O.C.G.A. Title 2, Ch. 8

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8
Agricultural Commodities Promotion (Arts. 1 — 6)***

CHAPTER 8 Agricultural Commodities Promotion

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O.C.G.A. § 2-8-1

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8
Agricultural Commodities Promotion (Arts. 1 — 6) > Article 1 Purpose of Chapter (§§ 2-8-1 — 2-8-2)***

2-8-1. Short title.

This chapter may be cited as the “Georgia Agricultural Commodities Promotion Act.”

History

Ga. L. 1961, p. 301, § 2; Ga. L. 1969, p. 763, § 3; Ga. L. 1989, p. 1420, § 1.

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O.C.G.A. § 2-8-2

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8
Agricultural Commodities Promotion (Arts. 1 — 6) > Article 1 Purpose of Chapter (§§ 2-8-1 — 2-8-2)***

2-8-2. Intent and purpose of chapter.

It is the intent and purpose of this chapter to implement Article VII, Section III, Paragraph II(b) of the Constitution of Georgia, providing for the promotion of the production, marketing, sale, use and utilization, processing, and improvement of agricultural products. The provisions of this chapter which provide for the financing of the cost of programs authorized under this chapter are expressly found, determined, and declared to be an exercise of the authority vested in the General Assembly by this provision of the Constitution. It is the purpose of this chapter to promote agricultural products and commodities, provide education related to such agricultural products and commodities, and promote research concerning such agricultural products and commodities.

History

Ga. L. 1961, p. 301, § 1; Ga. L. 1969, p. 763, § 2; Ga. L. 1983, p. 3, § 46; Ga. L. 1989, p. 1420, § 1.

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O.C.G.A. § 2-8-5

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 1A Promotion of Agricultural Commodities (§ 2-8-5)

2-8-5. Definitions.

(a) As used in this Code section, the term:

(1) “Agricultural commodities” means any and all agricultural, horticultural, floricultural, and vegetable products produced in this state or any class, variety, or utilization thereof, either in their natural state or as processed by a producer for the purpose of marketing such product or by a processor, and shall include any one, any combination thereof, or all of the agricultural products, livestock and livestock products, poultry and poultry products, timber and timber products, fish and seafood, and the products of the farms and forests of this state.

(2) “Processor” has the meaning provided by Code Section 2-8-11.

(3) “Producer” has the meaning provided by Code Section 2-8-11.

(b) The Commissioner shall be authorized to take all actions necessary and appropriate to create, register, license, promote, and protect a trademark for use in connection with the general promotion of agricultural commodities as being Georgia grown.

History

Code 1981, § 2-8-5, enacted by Ga. L. 2009, p. 446, § 3/SB 152.

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O.C.G.A. § 2-8-10

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 2 Agricultural Commodity Commissions Generally (§§ 2-8-10 — 2-8-38)

2-8-10. Nonapplicability of article to Agricultural Commodity Commission for Peanuts, Agricultural Commodity Commission for Equines, Agricultural Commodity Commission for Georgia Grown Products; or Agricultural Commodity Commission for Propane.

This article shall not apply to the Agricultural Commodity Commission for Peanuts provided for in Article 3 of this chapter, except as provided in Code Section 2-8-13; nor shall this article apply to the Agricultural Commodity Commission for Equines provided for in Article 5 of this chapter; nor shall this article apply to the Agricultural Commodity Commission for Georgia Grown Products provided for in Article 4 of this chapter; nor shall this article apply to the Agricultural Commodity Commission for Propane provided for in Article 6 of this chapter.

History

Code 1981, § 2-8-10, enacted by Ga. L. 1989, p. 1420, § 1; Ga. L. 2006, p. 632, § 1/SB 380; Ga. L. 2013, p. 74, § 2/HB 298; Ga. L. 2019, p. 91, § 2/HB 512.

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O.C.G.A. § 2-8-11

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8
Agricultural Commodities Promotion (Arts. 1 — 6) > Article 2 Agricultural Commodity
Commissions Generally (§§ 2-8-10 — 2-8-38)***

2-8-11. Definitions.

As used in this article, the term:

- (1) “Advertising and sales promotion” means, in addition to the ordinarily accepted meaning thereof, trade promotion and activities for the prevention, modification, or removal of trade barriers which restrict the normal flow of agricultural commodities to market and may include the presentation of facts to and negotiations with state, federal, or foreign governmental agencies on matters which affect the marketing of any commodity or commodities included in any marketing order made effective pursuant to this article.
- (2) “Agricultural commodity” means any and all agricultural, horticultural, floricultural, and vegetable products produced in this state or any class, variety, or utilization thereof, either in their natural state or as processed by a producer for the purpose of marketing such product or by a processor as defined in this Code section, and shall include any one, any combination thereof, or all of the agricultural products, livestock and livestock products, poultry and poultry products, timber and timber products, fish and seafood, and the products of the farms and forests of this state. For the purpose of this article, the term “agricultural commodity” shall not mean or include peanuts.
- (3) “Commission” means each and every agricultural commodity commission created under this article.
- (4) “Distributor” means any person who engages in the operation of selling, marketing, or distributing an agricultural commodity which he or she has produced or has purchased or acquired from a producer or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise, but shall not include a retailer as defined in this Code section, except a retailer who purchases or acquires from, or handles on behalf of, any producer, an agricultural commodity not theretofore subjected to regulation by the marketing order covering such commodity.
- (5) “Handler” means any person engaged within this state as a distributor in the business of distributing an agricultural commodity or any person engaged as a processor in the business of processing an agricultural commodity.
- (6) “Marketing order” means an order issued pursuant to this article prescribing rules and regulations governing the processing, distributing, or handling in any manner of any agricultural commodity within this state or establishing an assessment for financing the programs established under this article.
- (7) “Person” means an individual, firm, corporation, association, or any other business unit or any combination thereof and includes any state agency which engages in any of the commercial activities regulated pursuant to this article.
- (8) “Processor” means any person engaged within this state in the operation of receiving, grading, packing, canning, fermenting, distilling, extracting, preserving, grinding, crushing, or changing the form of an agricultural commodity for the purpose of preparing such agricultural commodity for market or of marketing such commodity or engaged in any other activities performed for the purpose of preparing such commodity for market or of marketing such commodity but shall not include a person engaged in manufacturing another and different product from an agricultural commodity, so changed in form. The

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term “processor” shall not include an agent of the processor nor any person who receives an agricultural commodity for or on the account of another person.

(9) “Producer” means any person engaged within this state in the business of producing or causing to be produced for market any agricultural commodity as defined in this Code section. In the case of the Agricultural Commodity Commission for Wine and Grapes, such term means a farm winery as defined in subsection (a) of Code Section 3-6-21.1.

(10) “Producer marketing” or “marketed by producers” means any or all operations performed by any producer in preparing for market and includes selling, delivering, or disposing of, for commercial purposes, any agricultural commodity which he or she has produced to any handler as defined in this Code section.

(11) “Retailer” means any person who purchases or acquires any agricultural commodity for resale at retail to the general public for consumption off the premises; however, such person shall also be included within the definition of “distributor,” as set forth in this Code section, to the extent that he or she engages in the business of a distributor as defined in this Code section.

(12) “Seasonal marketing regulations” means marketing regulations, applicable to a particular marketing order, made effective as prescribed in this article for the purpose of carrying into effect, by administrative order, the marketing regulatory authorizations and the provisions of such marketing order, as such authorizations or provisions may be applicable to or required by changing economic or marketing conditions and requirements from time to time during each marketing season in which such marketing order may operate. Such seasonal marketing regulations shall not extend beyond the marketing order concerned; nor shall they modify or change the language of such marketing order.

(13) “To distribute” means to engage in the business of a distributor as defined in this Code section.

(14) “To handle” means to engage in the business of a handler as defined in this Code section.

(15) “To process” means to engage in the business of a processor as defined in this Code section.

History

Ga. L. 1961, p. 301, § 3; Ga. L. 1964, p. 141, § 1A; Ga. L. 1968, p. 398, § 1; Ga. L. 1969, p. 763, § 4; Code 1981, § 2-8-3; Code 1981, § 2-8-11, as redesignated by Ga. L. 1989, p. 1420, § 1; Ga. L. 2020, p. 611, § 1/ HB 1093; Ga. L. 2022, p. 352, § 2/ HB 1428.

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O.C.G.A. § 2-8-12

Current through the 2022 Regular Session of the General Assembly.

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2-8-12. Commissioner to administer and enforce article.

The Commissioner shall be authorized to exercise supervisory jurisdiction over the administration and enforcement of this article. In the performance of this duty, he is authorized to utilize the personnel and facilities of the department.

History

Ga. L. 1961, p. 301, § 4; Ga. L. 1969, p. 763, § 5; Code 1981, § 2-8-4; Code 1981, § 2-8-12, as redesignated by Ga. L. 1989, p. 1420, § 1.

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O.C.G.A. § 2-8-13

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 2 Agricultural Commodity Commissions Generally (§§ 2-8-10 — 2-8-38)

2-8-13. Ratification of previously established commissions and establishment of additional commissions; contributions deemed voluntary; balloting to determine continued existence.

(a)

(1) Each of the following commissions heretofore established pursuant to the “Georgia Agricultural Commodities Promotion Act,” (Ga. L. 1961, p. 301), as amended, effective from the date set forth below opposite its name, is ratified and confirmed as a public corporation and instrumentality of the State of Georgia from and since such date:

- (A) The Agricultural Commodity Commission for Milk established July 1, 1961;
- (B) The Agricultural Commodity Commission for Eggs established July 1, 1961;
- (C) The Agricultural Commodity Commission for Peanuts established August 1, 1961;
- (D) The Agricultural Commodity Commission for Sweet Potatoes established August 1, 1961;
- (E) The Agricultural Commodity Commission for Peaches established May 1, 1962;
- (F) The Agricultural Commodity Commission for Tobacco established July 1, 1962;
- (G) The Agricultural Commodity Commission for Apples established August 1, 1962; and
- (H) The Agricultural Commodity Commission for Cotton established August 1, 1965.

(2) Each of the following entities that were formed de facto to act as commodity commissions upon presentation by the producers of the affected agricultural commodity of a list of nominees for appointment and on which ex officio members elected by the House Committee on Agriculture and Consumer Affairs and the Senate Agriculture and Consumer Affairs Committee served is ratified and confirmed as a public corporation and instrumentality of the State of Georgia from and since such date:

- (A) The Agricultural Commodity Commission for Soybeans established September 1, 1971;
- (B) The Agricultural Commodity Commission for Canola established June 24, 1994;
- (C) The Agricultural Commodity Commission for Pecans established June 24, 1994;
- (D) The Agricultural Commodity Commission for Corn established March 24, 1995; and
- (E) The Agricultural Commodity Commission for Vegetables established June 19, 2006.

(3) There shall be an Agricultural Commodity Commission for Blueberries established on May 12, 2008.

(4) There shall be an Agricultural Commodity Commission for Ornamental Plants established on May 1, 2009. For purposes of this paragraph, the term “ornamental plants” means any plants grown in commercial nurseries for sale as live plants for use primarily in ornamental or landscape plantings; such

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term shall not include turf production or plants grown in nurseries for other agricultural, horticultural, or silvicultural use.

(5) There shall be an Agricultural Commodity Commission for Beef established on April 17, 2013. For purposes of this paragraph, the term “beef” means any bovine animal.

(6) There shall be an Agricultural Commodity Commission for Wine and Grapes established on September 1, 2020.

(b)

(1) All actions taken by each of the commissions enumerated in paragraph (1) of subsection (a) of this Code section prior to July 1, 1969, pursuant to terms of Ga. L. 1961, p. 301, as amended, are ratified; and all funds received by each of the commissions after the effective date shown opposite its name and prior to July 1, 1969, are determined to have been voluntarily contributed pursuant to subsection (h) of Code Section 2-8-14 and to constitute trust funds of such commission as provided in Code Section 2-8-17. Each of such commissions shall, from and after July 1, 1969, be organized and constituted, have corporate existence, and possess powers and duties as stated in this article and shall be governed and controlled by this article; provided, however, that any contract obligation or other undertaking entered into or incurred by or in behalf of any such commission prior to July 1, 1969, shall be valid and binding if authorized by Ga. L. 1961, p. 301, as amended.

(2) All actions taken by each of the commissions enumerated in paragraph (2) of subsection (a) of this Code section prior to May 11, 2007, pursuant to terms of Ga. L. 1969, p. 763, as amended, or this article are ratified; and all funds received by each of the commissions on or after the effective date shown opposite its name and prior to May 11, 2007, are determined to have been voluntarily contributed pursuant to subsection (h) of Code Section 2-8-14 and to constitute trust funds of such commission as provided in Code Section 2-8-17. Each of such commissions shall, from and after May 11, 2007, be organized and constituted, have corporate existence, and possess powers and duties as stated in this article and shall be governed and controlled by this article; provided, however, that any contract obligation or other undertaking entered into or incurred by or in behalf of any such commission prior to May 11, 2007, shall be valid and binding if authorized by Ga. L. 1969, p. 763, as amended, or this article.

(c)

(1) Prior to April 30, 1971, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-23 to determine whether any existing commission listed in paragraph (1) of subsection (a) of this Code section shall continue to exist and operate under this article.

(2) Prior to April 30, 2009, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-23 to determine whether any existing commission listed in paragraph (2) of subsection (a) of this Code section shall continue to exist and operate under this article.

(3) Prior to April 30, 2010, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-23 to determine whether any existing commission listed in paragraph (3) of subsection (a) of this Code section shall continue to exist and operate under this article.

(4) Prior to April 30, 2011, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-23 to determine whether any existing commission listed in paragraph (4) of subsection (a) of this Code section shall continue to exist and operate under this article.

(5) Prior to December 31, 2015, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-23 to determine whether any existing commission listed in paragraph (5) of subsection (a) of this Code section shall continue to exist and operate under this article.

(6) Prior to December 31, 2023, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-23 to determine whether any existing commission listed in

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paragraph (6) of subsection (a) of this Code section shall continue to exist and operate under this article.

History

Ga. L. 1968, p. 398, § 2; Ga. L. 1969, p. 763, § 8; Code 1981, § 2-8-5; Code 1981, § 2-8-13, as redesignated by Ga. L. 1989, p. 1420, § 1; Ga. L. 2007, p. 75, § 1/SB 165; Ga. L. 2008, p. 311, § 1/HB 649; Ga. L. 2009, p. 446, §§ 4, 5/SB 152; Ga. L. 2013, p. 65, §§ 1, 2/SB 97; Ga. L. 2020, p. 611, § 2/HB 1093.

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O.C.G.A. § 2-8-14

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2-8-14. Composition; appointments, terms of office, and compensation; certification; advisory boards, special committees, and personnel; legal representation; acceptance of donations; voting; termination.

(a) Each commission shall be composed of:

- (1) The Commissioner of Agriculture, or his or her designee, except as to the Agricultural Commodity Commission for Peanuts as created by Article 3 of this chapter, ex officio;
- (2) The president of the Georgia Farm Bureau Federation, ex officio;
- (3) One member, to serve as an ex officio member of all commissions, elected by the Senate Agriculture and Consumer Affairs Committee with a quorum present and a majority of those present concurring, who shall be a producer of an affected agricultural commodity and shall not be a member of the General Assembly;
- (4) One member, to serve as an ex officio member of all commissions, elected by the Agriculture and Consumer Affairs Committee of the House of Representatives with a quorum present and a majority of those present concurring, who shall be a producer of an affected agricultural commodity and shall not be a member of the General Assembly; and
- (5) Except as otherwise provided in subsection (c.1) of this Code section, five additional members, who shall be producers of the affected agricultural commodity, to be appointed by the ex officio members of the commission; provided, however, that such additional membership of the Agricultural Commodity Commission for Beef shall consist of three beef cattle farmers, one dairy farmer, and one individual involved in the marketing of cattle; and provided, further, that for the Agricultural Commodity Commission for Cotton, the number of additional members appointed pursuant to this paragraph shall be seven. For the purposes of the appointment of such additional members, the two members elected by each of the agriculture committees of the General Assembly, who shall serve as members of each commission, shall be deemed to be ex officio members.

(b) Except as otherwise provided in subsection (c.1) of this Code section, members elected by the agriculture committees of the General Assembly shall be elected during each regular session of the General Assembly convening in even-numbered years. Such members shall be selected so that one member is from the northern part of Georgia and one member is from the southern part. For purposes of this selection the northern part of Georgia shall be that area north of and including Richmond, McDuffie, Warren, Hancock, Baldwin, Jones, Bibb, Crawford, Upson, Talbot, and Muscogee counties; and the southern part shall be that area south of such counties. The chairpersons of the Senate and House committees shall by agreement determine which committee shall choose the member from the northern part and which committee shall choose the member from the southern part. Such members shall serve from the date of their election until the election of their successors.

(c) Except as otherwise provided in subsection (c.1) of this Code section, the appointment of additional members of the commission by the ex officio members thereof, as provided in this Code section, shall be made by them from a list of nominees, submitted by the producers of the affected agricultural commodity,

containing the names of double the number of appointments to be made. In the event of a controversy as to the producer group authorized to submit a list of nominees for appointment as members of the commission, the ex officio members shall consider and determine all issues pertaining thereto and upon making their determination shall make the appointments in accordance with such determination. Initial appointments shall be made for three members for a term of three years each from the effective date of their appointment and until their successors are appointed and qualified and two members for a term of two years each from the effective date of their appointment and until their successors are appointed and qualified. Thereafter, successors shall be appointed for a term of three years each from the effective date of their appointment and until their successors are appointed and qualified. Vacancies shall be filled by appointment by the ex officio members of the commission, in like manner, for the unexpired term, except that vacancies in the office of a member elected by a legislative committee shall be filled for the unexpired term by the legislative committee which made the previous appointment. Any appointed member shall be eligible for reappointment provided he or she is nominated as provided in subsection (b) of this Code section.

(c.1)

(1) The Agricultural Commodity Commission for Wine and Grapes shall also be composed of:

(A) Two members, who shall be producers of wine, appointed by the ex officio members of the Agricultural Commodity Commission for Wine and Grapes. Said members shall serve initial terms of two years and subsequent terms of three years from the effective date of their appointment and until their successors are appointed and qualified;

(B) One member appointed by the ex officio members of the Agricultural Commodity Commission for Wine and Grapes who shall be a producer of wine and shall reside in one of the following counties of this state: Banks, Bartow, Catoosa, Chattooga, Cherokee, Dade, Dawson, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Habersham, Hall, Hart, Jackson, Lumpkin, Madison, Murray, Pickens, Rabun, Stephens, Towns, Union, Walker, White, or Whitfield. In appointing such member, the ex officio members shall consider any recommendations of the board of directors of Georgia Wine Producers, Inc. Such member shall serve a three-year term from the effective date of his or her appointment and until a successor is appointed and qualified;

(C) One member appointed by the ex officio members of the Agricultural Commodity Commission for Wine and Grapes who shall be a producer of wine and shall reside in one of the following counties of this state: Baldwin, Barrow, Bibb, Bleckley, Bulloch, Burke, Butts, Candler, Carroll, Chattahoochee, Clarke, Clayton, Cobb, Columbia, Coweta, Crawford, DeKalb, Douglas, Effingham, Emanuel, Fayette, Fulton, Glascock, Greene, Gwinnett, Hancock, Haralson, Harris, Heard, Henry, Houston, Jasper, Jefferson, Jenkins, Johnson, Jones, Lamar, Laurens, Lincoln, Macon, Marion, McDuffie, Meriwether, Monroe, Morgan, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Peach, Pike, Polk, Putnam, Richmond, Rockdale, Schley, Screven, Spalding, Talbot, Taliaferro, Taylor, Treutlen, Troup, Twiggs, Upson, Walton, Warren, Washington, Wilkes, or Wilkinson. In appointing such member, the ex officio members shall consider any recommendations of the board of directors of Georgia Wine Producers, Inc. Such member shall serve a three-year term from the effective date of his or her appointment and until a successor is appointed and qualified; and

(D) One member appointed by the ex officio members of the Agricultural Commodity Commission for Wine and Grapes who shall be a producer of wine and shall reside in one of the following counties of this state: Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatham, Clay, Clinch, Coffee, Colquitt, Cook, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Evans, Glynn, Grady, Irwin, Jeff Davis, Lanier, Lee, Liberty, Long, Lowndes, McIntosh, Miller, Mitchell, Montgomery, Pierce, Pulaski, Quitman, Randolph, Seminole, Stewart, Sumter, Tattnall, Telfair, Terrell, Thomas, Tift, Toombs, Turner, Ware, Wayne, Webster, Wheeler, Wilcox, or Worth. In appointing such member, the ex officio members shall consider any recommendations of the board of directors of Georgia Wine Producers, Inc. Such member shall serve a three-year term from the effective date of his or her appointment and until a successor is appointed and qualified.

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(2) Vacancies shall be filled by appointment by the ex officio members of the Agricultural Commodity Commission for Wine and Grapes, in like manner, for the unexpired term, except that vacancies in the office of a member elected by a legislative committee shall be filled for the unexpired term by the legislative committee which made the previous appointment. Any appointed member shall be eligible for reappointment provided he or she is nominated as provided in this Code section.

(d)

(1) The ex officio members who are state officers shall be compensated as provided by law. Each such ex officio member shall be reimbursed by his respective department or from the funds of the commission for actual and necessary expenses incurred in the performance of his duties. Each such ex officio member who is a state officer may designate a representative of his department to act for him in performing any duties under this article.

(2) The two members elected by the agriculture committees of the General Assembly, as provided by subsection (a) of this Code section, shall be entitled to receive, for attending meetings of the commission, the same expenses and travel allowances which members of the General Assembly receive for attending meetings of legislative interim committees. Such expenses and allowances shall be paid from funds appropriated or otherwise available to the legislative branch of state government.

(3) The appointed members of the commission and the president of the Georgia Farm Bureau Federation shall receive compensation and reimbursement of expenses as shall be provided by the commission, and such funds shall be payable from the funds of the commission.

(e) It shall be the duty of the Commissioner to certify to the Secretary of State the membership of each commission and each change in membership as the same occurs.

(f) Each commission is authorized to appoint advisory boards, special committees, and individuals, including technical and clerical personnel, to advise, aid, and assist the commission in the performance of its duties. Compensation for such services shall be fixed by each commission and may be paid from the funds of each commission. The Attorney General shall represent each commission in legal matters and shall be the attorney for each commission. If the Attorney General determines that outside legal counsel is necessary or desirable in connection with any legal matter of the commission, he shall so inform the particular commission involved and, upon approval of the commission, he shall employ such outside counsel. Compensation for such outside counsel shall be agreed upon between such counsel and the Attorney General, subject to the approval of the commission. Such compensation shall be paid from the funds of the commission. Neither Code Section 16-10-9 nor any other law shall prohibit or be applicable to the employment of such counsel.

(g) Any other provision of this article to the contrary notwithstanding, a member of any federation or organization of producers shall be eligible to be appointed as a member of any commission administering this article with respect to any agricultural commodity produced by such federation or organization or handled by it for its members who produce it.

(h) Each commission is authorized to accept donations, gifts, and other property and to use the same for commission purposes. Each commission may exercise the powers and authority conferred by law upon corporations.

(i) The two members elected by the agriculture committees of the General Assembly, as provided by subsection (a) of this Code section, as members of each commission shall be entitled to vote on matters pertaining to the organization of each such commission and upon the selection and nomination of the appointed members of each commission. Such two members shall not be entitled to vote upon any matter pertaining to the policy provisions of the agricultural commodity nor shall they be entitled to vote upon the expenditure of any funds of the commission.

(j) Each commission shall continue as a public corporation and instrumentality of the State of Georgia until abolished by law or until terminated by referendum.

History

Ga. L. 1961, p. 301, §§ 9, 10; Ga. L. 1964, p. 141, § 1; Ga. L. 1968, p. 398, § 3; Ga. L. 1969, p. 763, §§ 10, 11; Ga. L. 1970, p. 86, § 1; Ga. L. 1980, p. 568, §§ 1-3; Ga. L. 1981, p. 692, § 1; Ga. L. 1982, p. 3, § 2; Code 1981, § 2-8-6; Code 1981, § 2-8-14, as redesignated by Ga. L. 1989, p. 1420, § 1; Ga. L. 2008, p. 311, § 2/ HB 649; Ga. L. 2009, p. 303, § 1/ HB 117; Ga. L. 2013, p. 65, § 3/ SB 97; Ga. L. 2013, p. 74, § 3/ HB 298; Ga. L. 2017, p. 774, § 2/ HB 323; Ga. L. 2019, p. 314, § 1/ HB 332; Ga. L. 2020, p. 611, § 3/ HB 1093.

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2-8-15. Public corporations; corporate powers; chairman; quorum; oath of office; certification of appointments to Secretary of State.

Each commission, with the name of the agricultural commodity annexed thereto, shall be a public corporation and an instrumentality of the State of Georgia. By that name, style, and title, each such commission may contract and be contracted with, implead and be impleaded, and complain and defend in all courts. Each such commission shall name its chairman and determine a quorum for the transaction of business. Each such commission shall assume the duties and exercise the authority provided in this article without further formality than that provided in this article. Each member of each such commission shall be a public officer and shall take an oath of office faithfully to perform his duties. Such oath shall be administered by the Commissioner or some other person qualified to administer oaths. The fact of a member's appointment shall be certified to the Secretary of State, who shall issue the appropriate commission under the seal of his office.

History

Ga. L. 1961, p. 301, § 8; Ga. L. 1969, p. 763, § 9; Code 1981, § 2-8-7; Code 1981, § 2-8-15, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-16. Funds of commissions — Receipt, collection, and disbursement.

The Commissioner is authorized and it shall be his duty to receive, collect, and disburse the funds of each commission qualifying and operating under this article. He shall disburse funds of any entity created under this article only upon the written authorization of the affected commission.

History

Ga. L. 1961, p. 301, § 5; Ga. L. 1969, p. 763, § 6; Code 1981, § 2-8-8; Code 1981, § 2-8-16, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-17. Funds of commissions — Treatment as trust funds.

Funds received by the Commissioner under this article shall be held in trust for the affected commission. Such funds shall be deposited, accounted for, and disbursed in the same manner as the funds of this state but shall not be required to be deposited in the state treasury and appropriated therefrom as are other state funds. It is the express intent and purpose of this article to authorize the receipt, collection, and disbursement by the Commissioner of such funds as trust funds of the affected entity without complying with the requirement applicable to funds collected for the use and benefit of the state.

History

Ga. L. 1961, p. 301, § 6; Ga. L. 1969, p. 763, § 7; Code 1981, § 2-8-9; Code 1981, § 2-8-17, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-18. Bonds of persons handling funds.

Any person who handles funds under this article shall be bonded with good and sufficient surety in an amount determined by the Commissioner for the accounting of any and all funds coming into his hands.

History

Ga. L. 1961, p. 301, § 26; Ga. L. 1969, p. 763, § 27; Code 1981, § 2-8-10; Code 1981, § 2-8-18, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-19. Liability of commission members and employees.

The members and employees of any commission governed by this article and the Commissioner shall not be held responsible individually in any way whatsoever to any producer, processor, distributor, or other handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of any such commission. The liability of the members of the commission shall be several and not joint and no member shall be liable for the default of any other member.

History

Ga. L. 1961, p. 301, § 21; Ga. L. 1969, p. 763, § 22; Code 1981, § 2-8-11; Code 1981, § 2-8-19, as redesignated by Ga. L. 1989, p. 1420, § 1.

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 2 Agricultural Commodity
Commissions Generally (§§ 2-8-10 — 2-8-38)***

2-8-20. Cooperation with state and federal governmental authorities.

The Commissioner and any commission governed by this article are authorized to confer with and to make any information obtained pursuant to this article available to the duly constituted governmental authorities of this state, of other states, of political subdivisions of this state or other states, and of the United States who, by reason of their duties, have legitimate concern with the subject and to cooperate with all such authorities for the purpose of obtaining administrative uniformity and achieving the objectives of this article.

History

Ga. L. 1968, p. 398, § 15; Ga. L. 1969, p. 763, § 24; Code 1981, § 2-8-12; Code 1981, § 2-8-20, as redesignated by Ga. L. 1989, p. 1420, § 1.

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 2 Agricultural Commodity
Commissions Generally (§§ 2-8-10 — 2-8-38)**

2-8-21. Issuance of marketing orders authorized; notice; public hearing; record; reports from handlers; compilation of lists of producers and handlers; use of information in reports.

(a) The Commissioner, upon the approval and request of a commission governed by this article, is authorized to issue, administer, and enforce the provisions of marketing orders regulating producer marketing or the handling of agricultural commodities within this state.

(b)

(1) Whenever the Commissioner has reason to believe that the issuance of a marketing order or amendments to an existing marketing order will tend to effectuate the declared policy of this article with respect to any agricultural commodity, he or she shall, either upon his or her own motion, upon the motion of any commission, or upon the application of any producer of such commodity or any organization of such persons, give due notice of and an opportunity for a public hearing either in person or wholly or partially by means of remote communication as determined by the Commissioner upon a proposed marketing order or amendments to an existing marketing order.

(2) Notice of any hearing called for such purpose shall be given by the Commissioner or the commission by publishing a notice of such hearing for a period of not less than five days on the Commissioner's website and in The Farmers and Consumers Market Bulletin or other similar publication that will effectively notify those affected by such marketing order or amendment. The Commissioner or the commission shall also mail a copy of such notice of hearing and a copy of such proposed marketing order or proposed amendments to all producers of such agricultural commodity whose names and addresses appear upon lists of such persons on file in the department and who may be directly affected by the provisions of such proposed marketing order or such proposed amendments.

(3) The hearing and all testimony shall be public. A full and complete record of the proceedings at such hearing shall be made and maintained on file in the office of the Commissioner or the commission. The hearing shall, in all respects, be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The hearing may be conducted by the commission, by a member of the commission, or by the Commissioner, as may be designated by the commission in each instance, but no decision shall be made based on hearings conducted other than by the commission itself, at which a majority of the members thereof are present, until the members of the commission have been afforded an opportunity to review the hearing record. Where the commission conducts hearings, its recommendation shall be based on the findings reached after a review of the record of the hearing.

(c)

(1) In order to provide the Commissioner or the commission with accurate and reliable information with respect to the persons who may be directly affected by any proposed marketing order for any agricultural commodity when such information is not then on file in the department, the Commissioner or the commission is authorized and directed, whenever the Commissioner or the commission has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of this article or upon receipt of a written application for a hearing pursuant to subsection (b) of this Code

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section, to notify all handlers of such agricultural commodity, by publication of a notice as required in paragraph (2) of this subsection, to file with the Commissioner or the commission within ten days from the last date of such publication a report, properly certified, showing:

- (A) The correct name and address of such handler;
- (B) The quantities of the agricultural commodity affected by the proposed marketing order handled by such handler in the marketing season next preceding the filing of such report;
- (C) The correct names and addresses of all producers of such agricultural commodity who may be directly affected by such proposed marketing order, from whom such handler received such agricultural commodity in the marketing season next preceding the filing of such report; and
- (D) The quantities of such agricultural commodity received by such handler from each such producer in the marketing season next preceding the filing of such report.

(2) The notice to handlers requiring them to file a report shall be published by the Commissioner or the commission for a period of not less than five days on the Commissioner's website and in The Farmers and Consumers Market Bulletin or other similar publication that will effectively notify those affected by such marketing order or amendment. The Commissioner or the commission shall also mail a copy of such notice to all handlers of such agricultural commodity whose names and addresses appear upon the lists on file in the department who may be directly affected by such proposed marketing order.

(3) Each handler of an agricultural commodity directly affected by a proposed marketing order shall file his or her verified report with the Commissioner or the commission within the time frame specified in paragraph (1) of this subsection. Failure or refusal of any handler to file such report shall not invalidate any proceeding taken or marketing order issued. The Commissioner or the commission is authorized and directed to proceed upon the basis of such information and reports as may otherwise be available.

(4) From the reports so filed and the information so received or available to the Commissioner or the commission, including any proper corrections, the Commissioner or the commission shall prepare a list of the names and addresses of such producers and the volume of such commodity produced or marketed by all such producers and a list of the names and addresses of such handlers and the volume of such commodity handled by all such handlers, directly affected by such proposed marketing order or amendments thereto, in the preceding marketing season. Such lists shall constitute complete and conclusive lists for use in any finding made by the Commissioner or the commission pursuant to subsection (a) of Code Section 2-8-23 and such findings shall be conclusive.

(5) The information contained in the individual reports of handlers filed with the Commissioner or the commission pursuant to this Code section shall not be made public in such form. The information contained in such reports may be prepared in combined form for use by the Commissioner or the commission, their agents, or other interested persons in the formulation, administration, and enforcement of a marketing order or may be made available pursuant to court order. Such information shall not be made available to anyone for private purposes.

History

Ga. L. 1961, p. 301, § 11; Ga. L. 1968, p. 398, § 4; Ga. L. 1969, p. 763, § 12; Code 1981, § 2-8-13; Code 1981, § 2-8-21, as redesignated by Ga. L. 1989, p. 1420, § 1; Ga. L. 2021, p. 614, § 2/SB 247.

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2-8-22. Recommendation of marketing orders or amendments by commission; authorized provisions.

(a) If, upon the basis of the record of testimony and documentary evidence received at the hearing provided for in Code Section 2-8-21 and the facts officially noticed therein from official publications or institutions of recognized standing, the commission determines that the issuance of a marketing order or an amendment will tend to effectuate the intent and purpose of this article, it may recommend the promulgation of a marketing order or amendment with respect to the matters specified in the hearing notice and supported by the record, containing any or all of the following provisions, but no others:

(1) Provisions regulating the period or periods during which any agricultural commodity or any grade, size, or quality of such commodity may be processed, distributed, or otherwise marketed within this state by any and all persons engaged in such processing, distributing, or marketing within this state; such periods shall be established by the commission so as to conform to the better principles of sound agricultural practices with respect to production of the commodities affected, in order to secure, so far as is commercially practical, a sufficient supply of good quality of each grade of such commodity proportionate to normal market demand and to prevent disruptive marketing practices likely to result in oversupply or scarcity, which create unnecessarily inflated prices to consumers and handlers, depressed prices to producers, or salability of products of inferior grade and quality due to unavailability of good quality products;

(2) Provisions establishing or providing for establishing, with respect to any agricultural commodity, either as delivered by producers to handlers or processors or as handled, processed, or otherwise prepared for market or as marketed by producers, handlers, or processors:

(A) Grading standards of quality, condition, size, maturity, or pack, which standards may include minimum standards, provided that the standards so established shall not be established below any minimum standards prescribed by law for such commodity; and

(B) Uniform inspection and grading of such commodity in accordance with the standards so established.

(3) Provisions for the establishment of plans for advertising and sales promotion to maintain present markets or to create new or larger markets for agricultural commodities grown in this state or for the prevention, modification, or removal of trade barriers which obstruct the normal flow of agricultural commodities to market. The commission is authorized to prepare, issue, administer, and enforce plans for promoting the sale of any agricultural commodity, provided that any such plan shall be directed toward promoting and increasing the sale, use, and utilization of such commodity without reference to a particular brand or trade name; and provided, further, that no advertising or sales promotion program shall be issued by the Commissioner or the commission which makes use of false or unwarranted claims in behalf of any such product or disparages the quality, value, sale, or use of any other agricultural commodity;

(4) Provisions prohibiting unfair trade practices by which any producer or handler tends toward establishment of monopoly, unfairly discriminates among customers as to price or quality, or engages

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in fraudulent, deceptive, or misleading representations, concealment, or other similar sharp business practices which are harmful to his or its customers, injurious to competitors, likely to bring into disrepute persons generally engaged in production and handling of the commodity involved, or detrimental to the intent and purpose of this article;

(5) Provisions for carrying on research studies in promoting the production, marketing, sale, use and utilization, processing, and improvement of any agricultural commodity or any combination thereof and for the expenditure of moneys for such purposes. In any research carried on under this paragraph, the dean of the College of Agricultural and Environmental Sciences of the University of Georgia, the Commissioner, and the commission shall cooperate in selecting the research project or projects to be carried on from time to time. Insofar as practicable such projects shall be carried out by the College of Agricultural and Environmental Sciences but, if the dean of the college and the commission determine that the college has no facilities for a particular project or that some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the commission;

(6) Provisions establishing or providing authority for establishing, for any agricultural commodity, either as such commodity is produced or is delivered by producers to handlers or as such commodity is handled or otherwise prepared for market or as such commodity is marketed by producers or handlers, an educational program designed to acquaint producers, handlers, or other interested persons with quality improvement, including sanitation practices, procedures, or methods as applied to such commodity;

(7) Provisions for the promotion of the marketing of surplus commodities through the establishment of surplus, stabilization, or by-product pools for any agricultural commodity or any grade, size, quality, or condition thereof, providing for the sale of the commodity in any such pool and for the equitable distribution among the persons participating therein of the net returns derived from the sale of such commodity. Whenever the marketing order authorizes the establishment of any such pool or pools, the commission shall have the power to receive such commodity from each producer or handler, to handle the same according to the grade, size, quality, or condition thereof, and to account to each producer or handler participating therein upon a pro rata basis for the net proceeds derived from the sale thereof. Whenever the marketing order authorizes the establishment of a surplus, stabilization, or by-product pool, the commission shall have authority to promote the marketing of surplus commodities by making arrangements for and operating any necessary facilities for the storing, financing, grading, hauling, packing, servicing, processing, preparing for market, selling, and disposing of the contents of any pools provided for in this paragraph. Whenever the marketing order authorizes the establishment of any type of pool authorized in this paragraph, the commission shall have authority to create, by a uniform assessment upon producers, or to maintain and disburse, upon some other uniform and equitable basis, an equalization fund to be used for the removal of any inequalities between producers or handlers participating in any pool.

(b) All provisions authorized by this Code section which are contained in marketing orders and amendments thereto heretofore adopted by any commission and in effect on July 1, 1969, shall be and remain of full force and effect until repealed or modified by each such commission as provided in this article.

History

Ga. L. 1961, p. 301, § 13; Ga. L. 1968, p. 398, § 6; Ga. L. 1969, p. 763, § 13; Ga. L. 1971, p. 78, § 1; Ga. L. 1974, p. 564, § 1; Code 1981, § 2-8-14; Code 1981, § 2-8-22, as redesignated by Ga. L. 1989, p. 1420, § 1; Ga. L. 1995, p. 10, § 2.

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2-8-23. Approval by producers prerequisite to issuance of marketing order or major amendment; notice; rules and regulations; expiration; extensions; referendum.

(a)

(1)

(A) No marketing order or major amendment thereto, directly affecting producers or producer marketing, issued pursuant to this article, shall be made effective by the Commissioner or the commission until approved in a referendum by two-thirds of a quorum consisting of at least 25 percent of the notified eligible producers who are engaged within the area specified in such marketing order or amendment thereto.

(B) No marketing order renewal, directly affecting producers or producer marketing, issued pursuant to this article, shall be made effective by the Commissioner or the Commission until approved in a referendum by two-thirds of the producers who are engaged within the area specified in such marketing order or amendment thereto.

(2) Whenever any marketing order or any major amendment to any marketing order is issued by the commission, the commission shall determine whether assent, approval, or favor thereto of the producers shall be by written assents or by referendum.

(3) If the Commissioner or the commission determines that a referendum shall be had, the Commissioner or the commission shall establish a referendum period of 30 days. At the close of such referendum period, the Commissioner or the commission shall count and tabulate the ballots filed during such period.

(4) At a public hearing held to consider a proposed marketing order or major amendments to an existing marketing order which directly affect producers or producer marketing, the Commissioner or the commission shall also receive testimony or evidence from which he or she or it can determine whether the assent, approval, or favor of such producers shall be determined by written assents or by referendum as prescribed in this Code section. Upon the conclusion of any hearing which involves a marketing order or a major amendment thereto directly affecting producers or producer marketing, the Commissioner or the commission shall make a finding, based upon the testimony and evidence received, whether producer assent, approval, or favor shall be determined by written assents or by referendum. If the Commissioner or the commission finds that a referendum shall be had, he or she or it shall direct that a referendum be held in accordance with this subsection.

(5) Any referendum or assent in writing to a marketing order under paragraphs (3), (5), and (6) of subsection (a) of Code Section 2-8-22 shall be held pursuant to this Code section; and upon the approval thereof by two-thirds of those voting therein, where the total vote cast thereon represents not less than 25 percent of those eligible to vote or where the total vote cast thereon represents not less than 25 percent of the total amount of the affected agricultural commodity, such marketing order may be declared by the commission to be approved.

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(6) In the event of the failure of any proposed marketing order to be approved, no additional referendum thereon shall be held during a period of 12 months from the date of the close of the previous referendum period.

(b) Subject to the provisions, restrictions, and limitations imposed in this article, the Commissioner or the commission may issue marketing orders regulating producer marketing and the processing, distributing, or handling in any manner of agricultural commodities by any and all persons engaged in such producer marketing, processing, distributing, or handling of such agricultural commodities within this state.

(c)

(1) Upon the recommendation of not less than three of the appointed members of the commission, the Commissioner or the commission may make effective minor amendments to a marketing order. The Commissioner or the commission may require a public hearing upon minor amendments if in the Commissioner's or commission's opinion the substance of such minor amendments so warrants. The Commissioner or the commission, however, shall not be required to submit minor amendments for written assents or referendum approval.

(2) In making effective major amendments to a marketing order, the Commissioner or the commission shall follow the same procedures prescribed in this article for the institution of a marketing order. For the purpose of this article, a major amendment to a marketing order shall include, but shall not be limited to, any amendment which adds to or deletes from any such marketing order any of the following types of regulations or authorizations:

(A) Authority for regulating the period or periods during which any agricultural commodity or any grade, size, or quality of such commodity may be processed, distributed, or otherwise marketed within this state;

(B) Authority for the establishment of uniform grading and inspection of any agricultural commodity and the establishment of grading standards of quality, condition, size, or pack of such commodity;

(C) Authority for the establishment of plans for advertising and sales promotion of any agricultural commodity;

(D) Authority to prohibit unfair trade practices;

(E) Authority for carrying out research studies in the production, processing, or distribution of any agricultural commodity;

(F) Authority to increase an assessment rate beyond the maximum rate authorized by the marketing order in effect;

(G) Authority to extend the application of the provisions of any marketing order to portions or uses of an agricultural commodity not previously subject to such provisions or to restrict or extend the application of such provisions upon the producers or handlers of such portions or uses of such commodity.

(3) Modification of any provisions of any marketing order in effect, for the purpose of clarifying the meaning or application of such provisions or of modifying administrative procedures for carrying out such provisions, are declared not to be a major amendment of such marketing order.

(d) Upon the issuance of any order making effective a marketing order or any suspension, amendment, or termination thereof, a copy of such notice shall be published as the Commissioner or the commission may prescribe. No marketing order nor any suspension, amendment, or termination thereof shall become effective until the termination of a period of five days from the date of such publication. It shall also be the duty of the Commissioner or the commission to mail a copy of the notice of such issuance to all persons directly affected by the terms of such marketing order, suspension, amendment, or termination whose names and addresses are on file in the office of the Commissioner or the commission and to every person who files in the office of the Commissioner or the commission a written request for such notice.

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- (e)** The Commissioner or the commission shall have the power, consistent with this article and in accordance with marketing orders and agreements made effective under this article, to establish such general rules and regulations for uniform application to all marketing orders issued hereunder as may be necessary to facilitate the administration and enforcement of such marketing orders. The provisions of subsection (d) of this Code section relative to publication, mailing of notice, and time of taking effect shall be applicable to any such general rule or regulation established pursuant to this subsection and applicable to marketing orders generally. Such notice shall be furnished by the Commissioner or the commission for each marketing order in active operation.
- (f)** Upon the recommendation of the commission concerned, the Commissioner shall have the power, consistent with this article, to establish administrative rules and regulations for each marketing order issued and made effective as may be necessary to facilitate the supervision, administration, and enforcement of each such order. The provisions of subsection (d) of this Code section relative to publication, mailing of notice, and time of taking effect shall be applicable to any such administrative rules and regulations.
- (g)** Unless extended as provided in this Code section, all marketing orders issued under the authority of this article shall expire, terminate, and become of no force and effect at the expiration of three years from the date of the issuance of the original marketing order or, if such marketing order has been extended, at the expiration of three years after the date of any such extension.
- (h)** In the event either one of the following conditions is complied with, a marketing order shall be extended for a period of three years after the date of its original expiration:
- (1)** Assent has been given in writing to such marketing order by not less than two-thirds of the producers participating; or
 - (2)** Approval or favor of such marketing order has been given by producers in a referendum among producers directly affected if at least 66 $\frac{2}{3}$ percent of the votes cast in such referendum favor the extension of such marketing order.
- (i)** If the Commissioner or the commission determines that a referendum shall be held, the Commissioner or the commission shall establish a referendum period of 30 days, such referendum period to terminate at least 30 days prior to the expiration date of the marketing order which is the subject of such referendum. At the close of such referendum period, the Commissioner or the commission shall count and tabulate the ballots cast during such period. If from such tabulation the Commissioner or the commission finds that the number of producers voting in favor of the extension of such marketing order is not less than 66 $\frac{2}{3}$ percent of the total number of ballots cast, then such marketing order shall be extended for a period of three years after the expiration date. If it is found from the tabulation of such referendum that the number of producers who had voted in favor of the extension of such marketing order is less than the required 66 $\frac{2}{3}$ percent of the total number of ballots cast, then the marketing order shall expire, terminate, and be of no force and effect as provided in subsection (g) of this Code section.

History

Ga. L. 1961, p. 301, § 14; Ga. L. 1964, p. 141, §§ 2, 3; Ga. L. 1969, p. 763, §§ 15, 16; Code 1981, § 2-8-15; Code 1981, § 2-8-23, as redesignated by Ga. L. 1989, p. 1420, § 1; Ga. L. 2021, p. 614, § 3/SB 247; Ga. L. 2022, p. 352, § 2/HB 1428.

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2-8-23.1. Limitations on assessments.

- (a) No marketing order issued by the Agricultural Commodity Commission for Beef shall impose an assessment in excess of \$1.00 per head on bovine animals sold, nor shall any assessment be placed on any bovine animal which sells for less than \$100.00.
- (b) The Agricultural Commodity Commission for Beef may in its discretion lower the assessment amount imposed by any marketing regulation duly issued under the authority provided by this article.
- (c) No marketing order issued by the Agricultural Commodity Commission for Wine and Grapes shall exceed the highest excise tax levied under Code Section 3-6-50.

History

Code 1981, § 2-8-23.1, enacted by Ga. L. 2013, p. 65, § 4/SB 97; Ga. L. 2020, p. 611, § 4/HB 1093.

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2-8-24. Area marketing orders authorized.

Marketing orders issued by any commission under this article may be limited in their application by prescribing the marketing areas or portions of the state in which a particular order shall be effective, provided that no marketing order shall be issued by the commission unless it embraces all persons of a like class who are engaged in a specific and distinctive agricultural industry or trade within this state.

History

Ga. L. 1961, p. 301, § 17; Ga. L. 1968, p. 398, § 11; Ga. L. 1969, p. 763, § 18; Code 1981, § 2-8-16; Code 1981, § 2-8-24, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-25. Seasonal marketing regulations authorized; notice of issuance; liberal interpretation of Code section.

(a) The Commissioner, upon recommendation of the commission concerned, and each commission, without prior notice to and public hearing for the producers or handlers of the commodity directly affected, may issue and make effective seasonal marketing regulations or modifications thereof, provided that the marketing order, made effective after due notice, public hearing, and written assent as required by this article, (1) provides for the issuance or modification of such seasonal marketing regulations without requiring such prior notice and public hearing, and (2) sets forth the limits within which such seasonal marketing regulations may be made effective or subsequently modified by the Commissioner or the commission; and provided, further, that the commission finds that such seasonal marketing regulations or modifications thereof are reasonable and proper and a practical means of carrying out the marketing provisions authorized in such marketing order or agreement and will effectuate the declared purposes and policies of this article with respect to such agricultural commodity. Notice of the issuance and the effective date of any such seasonal marketing regulations or modifications thereof shall be given by the Commissioner or the commission to all producers and handlers directly affected by any such regulations in the manner and within the time specified in the applicable marketing order or, in absence of such, as may be specified by the commission or as specified in the administrative rules and regulations made effective for such marketing order pursuant to subsection (f) of Code Section 2-8-23.

(b) It is recognized that with respect to some agricultural commodities, marketing, weather, and other conditions may change so rapidly as to require changes in seasonal marketing regulations from week to week or more often. It is intended that this Code section be interpreted liberally so that the Commissioner or the commission may be enabled to carry out the marketing regulations and procedures authorized in this Code section in a practical and effective manner.

History

Ga. L. 1961, p. 301, § 14; Ga. L. 1968, p. 398, § 7; Ga. L. 1969, p. 763, § 14; Code 1981, § 2-8-17; Code 1981, § 2-8-25, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-26. Applicability of marketing orders.

Whenever producers or handlers of an agricultural commodity regulated by a marketing order issued by any commission pursuant to this article are required to comply with minimum quality, condition, size, or maturity regulations, no person, except as otherwise provided in such order, shall process, distribute, or otherwise handle any of such agricultural commodity from any source, whether produced within or without this state, which commodity does not meet such minimum requirements applicable to producers or handlers of such commodity in this state, provided that such regulations shall not apply to any commodity which has been produced outside of this state and is in transit on the effective date of the regulations.

History

Ga. L. 1961, p. 301, § 17; Ga. L. 1968, p. 398, § 11; Ga. L. 1969, p. 763, § 18; Code 1981, § 2-8-18; Code 1981, § 2-8-26, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-27. Assessments to defray expenses; borrowing in anticipation of collections; use and repayment of contributions in lieu of advance deposits; collection and enforcement of assessments generally; disposition and investment of proceeds; audit.

(a) For the purpose of providing funds to defray the necessary expenses incurred by the Commissioner or the commission in the formulation, issuance, administration, and enforcement of each marketing order issued under this article, each such marketing order shall provide for the levying and collection of assessments in sufficient amounts to defray such expenses. Each marketing order shall indicate the maximum rate of any such assessment which may be collected and the proportion, if any, payable by each producer and handler directly regulated or affected by such marketing order. In administering such marketing order, the commission shall adopt, from time to time, budgets to cover necessary expenses and the assessment rate necessary to provide sufficient funds. If the commission finds that each such budget and assessment rate are proper and equitable and will provide sufficient moneys to defray the necessary expenses, it may approve such budget and rate of assessment and order that each producer and handler so assessed shall pay to the Commissioner or the commission, at such times and in such installments as the commission may prescribe, an assessment, based upon the units in which such agricultural commodity is marketed or upon any other uniform basis which the commission determines to be reasonable and equitable, but in amounts which (1) in the case of producers will not exceed 2 ½ percent of the gross dollar volume of sales of the commodity affected by all such producers regulated by such marketing order, or (2) in the case of processors, distributors, or other handlers will not exceed 2 ½ percent of the gross dollar volume of purchases of the commodity affected by the marketing order from producers or of the gross dollar volume of sales of the commodity affected by the marketing order and handled by all such processors, distributors, or other handlers regulated by such marketing order during the marketing season or seasons during which such marketing order is effective.

(b) Each marketing order which authorizes the carrying out of advertising and sales promotion plans shall provide for the levying and collection of assessments in sufficient amounts to defray the expenses of such activities. Each such marketing order shall indicate the maximum rate of any such assessment and the proportion, if any, payable by each producer and handler directly regulated or affected by such marketing order. The commission shall adopt budgets to cover such expenses and establish the assessment rate necessary to provide sufficient funds. If the commission finds that each such budget and assessment rate are proper and equitable and will provide sufficient moneys to defray such expenses, they may approve such budget and approve and levy such assessment. Any assessments so established shall be based upon the units in which such agricultural commodity is marketed or upon any other uniform basis which the commission determines to be proper and equitable. Any assessment rates established under this subsection shall be in amounts not to exceed 4 percent of the gross dollar volume of sales by all producers or by all processors, distributors, or other handlers of such agricultural commodity regulated by such marketing order during the marketing season or seasons during which such marketing order is effective.

(c) In lieu of the assessments to defray the costs of formulation, issuance, administration, and enforcement of the marketing order and of advertising or sales promotion provided for in subsections (a) and (b) of this

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Code section, if the marketing order contains provisions for advertising or sales promotion as authorized in this article, the commission may approve and fix one assessment not exceeding 6 ½ percent of the gross dollar volume of sales of such commodity by all producers or by all processors, distributors, or other handlers of such agricultural commodity regulated by such marketing order during the marketing season or seasons during which such marketing order is effective. The method and manner of assessment and collection thereof and the limitations and restrictions applicable thereupon shall conform in all respects with subsection (b) of this Code section, except as to the maximum amount of such assessment. In such case, the commission shall approve the proportions of such assessments which may be expended to defray the costs of formulation, issuance, administration, and enforcement of the marketing order and of such advertising or sales promotion program, provided that the proportion of such assessments which may be allocated in such manner to defray the cost of such administrative activities for such marketing order shall in no case exceed the maximum amount authorized in subsection (a) of this Code section.

(d) In the event that any commission has reason to believe that the administration of a marketing order will be facilitated or the attainment of the purposes and objectives of the marketing order will be promoted thereby, the commission is authorized to borrow money, with or without interest, to carry out any provision of any marketing order authorized by this article and may hypothecate anticipated assessment collections applicable to such respective provisions.

(e) In lieu of requiring advance deposits for defraying administrative or advertising and sales promotion expenses until such time as sufficient moneys are collected for such purposes from the payment of assessments established pursuant to this Code section, the Commissioner is authorized to receive and disburse for such purposes contributions made by producers, processors, distributors, or other handlers. Neither the commission nor the Commissioner shall be held responsible for the repayment of such contributions, provided that whenever collections from the payment of established assessments credited to the respective marketing order accounts are sufficient so to warrant, the commission shall recommend and the Commissioner shall repay contributions or shall authorize the application of such contributions to the assessment obligations of the persons who made such contributions.

(f) Each and every handler of the agricultural commodities for which an assessment has been established by or pursuant to this article shall, at the time of purchase of any such commodity from the producer thereof, collect from such producer the assessment established by or in accordance with this article and remit the same to the Commissioner for the use of the commission for which the same was levied. The liability of such handler under this article shall not be discharged except upon receipt of such sums by the Commissioner. For the purpose of this subsection, to ensure compliance with this Code section, and for the administrative convenience of the Commissioner in enforcing payment and collection of such assessments, delivery by a producer to a handler for processing of any agricultural commodity upon which an assessment has been established shall be deemed a sale of such commodity within the meaning of this Code section; and the assessment shall thereupon attach and become due, regardless of whether such handler actually purchases such agricultural commodity for himself or only processes same for a consideration payable by the producer or another person and such agricultural commodity is thereafter sold to another person, provided that upon collection of such assessment by the handler to whom such agricultural commodity is so delivered for processing only, no further or additional assessment shall attach or become due by reason of the subsequent sale by such producer of such processed agricultural commodity to another person or handler.

(g) The Commissioner may prescribe such rules as may be necessary and reasonable for the orderly reporting and transmitting of assessments by handlers and may take all legal action necessary to enforce payment of the same by handlers. The Commissioner is authorized to issue executions for the same in like manner as executions are issued for ad valorem property taxes due the state. It shall be the duty of each and every sheriff of this state and their lawful deputies, upon the request of the Commissioner, to levy and collect such executions and to make their return thereof to the Commissioner in like manner as such tax executions are levied and return thereof made to county tax collectors and tax commissioners. The Commissioner shall likewise be authorized to collect, by execution as above provided or otherwise, directly from the producer against whom any assessment levied under this Code section may be found due

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whenever it is determined that such producer has sold such affected commodity or commodities giving rise to such liability to a person other than to a handler who has collected such assessment and is required by this Code section to remit the same to the Commissioner. Furthermore, the Commissioner may proceed against such producer and the purchaser of such commodity simultaneously if the purchaser is a handler required to collect such assessment, until satisfaction is obtained.

(h) Any moneys collected by the Commissioner or the commission pursuant to this article shall be deposited in a bank or other depository approved by the commission and shall be disbursed by the Commissioner only for the necessary expenses incurred by the commission and the Commissioner, as approved by the commission. Funds so collected shall be deposited and disbursed in conformity with appropriate rules and regulations prescribed by the Commissioner. All such expenditures by the Commissioner shall be audited at least annually by the state auditor and a copy of such audit shall be delivered within 30 days after the completion thereof to the Governor, the Commissioner, and the affected commission. If any such commission is abolished, any funds remaining in its hands at such time shall be used to pay the existing obligations of such commission and the expenses incurred in winding up the affairs of such commission. Any excess remaining shall escheat to the state and shall be paid by the Commissioner into the state treasury as unclaimed trust funds.

(i) Moneys deposited by the Commissioner pursuant to this Code section which the commission determines are available for investment may be invested or reinvested by the Commissioner as provided for funds of this state or of any retirement system created by law, provided that all moneys invested shall be invested in those areas of production that will provide a return at the highest bank interest rate available. It shall be the duty of the commission annually to review these investments and determine that this Code section is complied with.

History

Ga. L. 1961, p. 301, § 16; Ga. L. 1968, p. 398, § 10; Ga. L. 1969, p. 763, § 17; Code 1981, § 2-8-19; Code 1981, § 2-8-27, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-28. Collection of assessments by civil action; penalty for delinquent payment.

(a) Any assessment levied or established in accordance with this article in such specified amount as may be determined by the Commissioner or the commission pursuant to this article shall constitute a personal debt of every person so assessed and shall be due and payable to the Commissioner when payment is called for by the Commissioner. In the event of the failure of such person to pay any such assessment upon the date determined by the Commissioner, the Commissioner may file an action against such person in a court of competent jurisdiction for the collection thereof.

(b) In the event that any producer or handler duly assessed pursuant to this article fails to pay to the Commissioner the amount so assessed on or before the date specified by the Commissioner, the Commissioner is authorized to add to such unpaid assessment an amount not exceeding 10 percent of such unpaid assessment to defray the cost of enforcing the collection of such unpaid assessment.

(c) The provisions of subsection (a) of this Code section with respect to collection of assessments by action are in addition to and cumulative of the provisions of this article authorizing the issuance of executions for assessments by the Commissioner. The 10 percent penalty authorized to be assessed upon delinquent assessments under subsection (b) of this Code section may likewise be included in any execution issued by the Commissioner. Such remedies may be pursued concurrently until satisfaction is obtained upon either. Any penalty recovered shall become a part of the principal assessment levied and shall be for the use of the commission entitled thereto as are other moneys received under this article.

History

Ga. L. 1961, p. 301, § 20; Ga. L. 1968, p. 398, § 14; Ga. L. 1969, p. 763, § 21; Code 1981, § 2-8-20; Code 1981, § 2-8-28, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-29. Maintenance and inspection of books and records and provision of information; confidentiality of information; hearings, testimony, and subpoenas.

- (a) The Commissioner may require any and all processors or distributors subject to the provisions of any marketing order issued pursuant to this article:
- (1) To maintain books and records reflecting their operations under the marketing order;
 - (2) To furnish to the Commissioner or his duly authorized or designated representatives such information as may from time to time be requested by them relating to operations under the marketing order; and
 - (3) To permit inspection by the Commissioner or his duly authorized or designated representatives of such portions of such books and records as relate to operations under the marketing order.
- (b) Information obtained by any person under this Code section shall be confidential and shall not be disclosed by him to any other person, except to a person with like right to obtain the information or to any attorney employed to give legal advice thereupon or by court order.
- (c) In order to carry out the purposes of this Code section, the Commissioner may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of books, records, or documents of any kind.

History

Ga. L. 1961, p. 301, § 22; Ga. L. 1969, p. 763, § 23; Code 1981, § 2-8-21; Code 1981, § 2-8-29, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-30. Use of grade or quality designations by persons not complying with order or regulations prohibited.

Whenever the use by a producer or handler of a particular emblem, label, certificate, or other distinctive designation of grade, quality, or condition, other than grade or other quality designations then in effect pursuant to state or federal grade standards, is made contingent upon compliance with certain production or handling regulations authorized by a marketing order issued and made effective under this article, it shall be unlawful and a violation of this article for any person who is not participating in and complying with such order or regulations to use such designation of grade, quality, or condition.

History

Ga. L. 1961, p. 301, § 18; Ga. L. 1968, p. 398, § 12; Ga. L. 1969, p. 763, § 19; Code 1981, § 2-8-22; Code 1981, § 2-8-30, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-31. Inspections; holding of commodity; warning notice; notice of noncompliance; time for correction of deficiencies; petition to divert or destroy; show cause order; disposition of noncomplying commodity; penalty provisions not waived by disposal.

- (a) Any authorized inspector or other authorized person discharging his duties in the checking of compliance with any marketing order made effective pursuant to this article may enter during normal business hours and inspect any premises, enclosure, building, or conveyance where he has reason to believe any agricultural commodity subject to a marketing order is produced, stored, being prepared for market, or marketed and may inspect or cause to be inspected such representative samples of the commodity as may be necessary to determine whether or not any lot of such commodity is in compliance with applicable regulations of any marketing order made effective pursuant to this article.
- (b) Any authorized inspector or other authorized person in the discharge of his duties, if he has reason to believe that a lot of any agricultural commodity subject to a marketing order issued under this article is not in compliance with the requirements of such marketing order or of marketing rules and regulations issued pursuant thereto, as to quality, condition, size, maturity, pack, labeling, or markings, may hold such lot for a reasonable period of time sufficient to enable such officer to ascertain by an authorized inspection whether such lot complies with such marketing requirements, but in any event not to exceed 24 hours in the case of perishables or 72 hours in the case of nonperishables, except as provided in this Code section.
- (c)
- (1) Following inspection, an inspector or other authorized person may affix to any lot which is determined to be in noncompliance an official notice, warning tag, or other appropriate marking warning that the lot is held and stating the reasons therefor. It shall be unlawful for any person, other than an authorized inspector or enforcing officer, to detach, alter, deface, or destroy any such official notice, warning tag, or marking so affixed to any such lot or to remove or dispose of such lot in any manner or under conditions other than as prescribed in such notice of noncompliance, except upon written permission of an authorized enforcing officer or by order of a court of competent jurisdiction.
- (2) The Commissioner or the authorized person by whom such lot is being held shall serve the person in possession of such lot with a notice of noncompliance. Such notice shall be served in person or by mail to the last known address of the person in possession. It shall be the duty of the person in possession to notify the owner of the lot or other persons having an interest therein of the serving of such notice of noncompliance.
- (3) Such notice of noncompliance shall include a description of the lot and the place where and reasons for which it is held and shall cite the applicable marketing order or marketing rules and regulations and the Code section upon which the notice of noncompliance is based.
- (d)
- (1) The owner of a lot shall have, in the case of a perishable commodity, not more than 48 hours and, in the case of a nonperishable commodity, not more than 72 hours from the time of the service of a

notice of noncompliance for reconditioning or for the correction of the deficiencies noted in the notice of noncompliance. If such lot is reconditioned or the deficiencies are corrected, the enforcing officer shall remove the warning tags or markings and release the lot for marketing, provided that with the consent of the owner of the lot, the enforcing officer is authorized to divert the lot to other lawful uses or to destroy the lot.

(2)

(A) If the owner of the lot fails or refuses to give consent to its diversion to other lawful uses or to its destruction or if the lot has not been reconditioned or the deficiencies otherwise corrected so as to bring the lot into compliance within the time specified in the notice, then the enforcing officer shall proceed as provided in this subsection.

(B) The Commissioner may file a verified petition in the superior court of the county where the agricultural commodity is held or the county of the residence of the owner thereof requesting permission to divert such lot to any other available lawful use or to destroy such lot. Such verified petition shall show the condition of the lot; that the lot is situated within the territorial jurisdiction of the court in which the petition is being filed or that the owner thereof resides within the jurisdiction of the court; that the lot is held and the notice of noncompliance has been served as provided in this Code section; that the lot has not been reconditioned as required; the name and address of the owner and the person in possession of the lot; and that the owner has refused permission to divert or to destroy the lot. Upon the filing of such verified petition the court may issue an order to show cause, returnable five days after service upon the owner, why the lot shall not be reconditioned or the deficiencies corrected or why the lot shall not be diverted to other lawful uses or destroyed. The owner of the lot may, prior to the date when the order to show cause is returnable, either recondition or correct the deficiencies in the lot so as to bring the lot into compliance or file at or before the hearing on the order an answer with the court showing why the lot should not be reconditioned or the deficiencies corrected so as to bring it into compliance or showing why the lot should not be diverted to other lawful uses or destroyed.

(C) If, at the expiration of the five days, the owner of the lot has failed or refused to recondition or to correct the deficiencies so as to bring the lot into compliance, the court may enter judgment ordering that the lot be reconditioned, diverted to any other lawful uses, or destroyed in the manner directed by the court or that the lot be relabeled, denatured, or otherwise processed or that the lot be sold or released upon such condition as the court in its discretion may impose, provided that the lot may not be sold or released into the regular channels of trade.

(D) In the event of the sale of any lot by order of the court, the costs of storage, handling, and reconditioning or disposal shall be deducted from the proceeds of the sale and the balance, if any, shall be paid into the court for the account of the owner of any such lot.

(e) Disposal of any lot or portion of any lot pursuant to this Code section, whether such disposal is by arrangement with an enforcing officer or by court order, shall not waive any of the penalty provisions of this article.

(f) This Code section shall apply to any lot of any agricultural commodity regulated by a marketing order wherever or in the possession of whomever such lot may be in the marketing channels within this state.

History

Ga. L. 1961, p. 301, §§ 18, 19; Ga. L. 1968, p. 398, §§ 12, 13; Ga. L. 1969, p. 763, §§ 19, 20; Code 1981, § 2-8-23; Code 1981, § 2-8-31, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-32. Civil penalties; notice and hearing; recovery procedure; disposition of proceeds.

Any person who violates any provision of this article or any marketing order duly issued by any commission and in effect under this article or who violates any rule or regulation issued by the Commissioner pursuant to this article or of any marketing order duly issued and effective under this article shall be civilly liable to such commission for a penalty in an amount not to exceed \$500.00 for each and every violation thereof, the amount of such penalty to be fixed by the Commissioner after notice and hearing as provided by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," for contested cases and recoverable by a civil action brought in the name of the Commissioner for the use and benefit of the affected commission or by execution issued in like manner as for assessments provided by Code Section 2-8-27. Any moneys recovered pursuant to this Code section shall be deposited and disbursed in accordance with subsection (e) of Code Section 2-8-27 as are other moneys.

History

Ga. L. 1961, p. 301, § 18; Ga. L. 1968, p. 398, § 12; Ga. L. 1969, p. 763, § 19; Code 1981, § 2-8-24; Code 1981, § 2-8-32, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-33. Action for civil penalty or injunctive relief; costs.

(a) The Attorney General of this state shall, upon complaint by the Commissioner, or may, upon his own initiative if after examination of the complaint and evidence he believes a violation has occurred, bring an action in the superior court in the name of the Commissioner for civil penalties or for injunctive relief, including specific performance of any obligation imposed by a marketing order or any rule or regulation issued under this article, or both, against any person violating any provisions of this article or of any marketing order or any rule or regulation duly issued by the Commissioner or any commission under this article.

(b) If it appears to the court, upon any application for a temporary restraining order, upon the hearing of any order to show cause why a preliminary injunction should not be issued, or upon the hearing of any motion for a preliminary injunction, or if the court finds in any such action that any defendant therein is violating or has violated any provision of this article or of any marketing order or any rule or regulation duly issued by the Commissioner or any commission under this article, then the court shall enjoin the defendant from committing further violations and may compel specific performance of any obligation imposed by a marketing order or any rule or regulation issued by the Commissioner or commission under this article. It shall not be necessary in such event to allege or prove lack of an adequate remedy at law.

(c) In any action brought by the Attorney General to enforce any of the provisions of this article or of any marketing order issued by the Commissioner or any commission and effective under this article or of any rule or regulation issued by the Commissioner or any commission pursuant to any marketing order, the judgment, if in favor of the Commissioner or the commission, may provide that the defendant pay to the Commissioner or to the commission concerned with the administration of such marketing order the costs incurred by the Commissioner or by the commission in the prosecution of such action.

History

Ga. L. 1961, p. 301, § 18; Ga. L. 1968, p. 398, § 12; Ga. L. 1969, p. 763, § 19; Code 1981, § 2-8-25; Code 1981, § 2-8-33, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-34. Referral for institution of legal proceedings; administrative hearing; cease and desist order.

(a) The Commissioner on his own motion may, and upon the complaint of any interested party charging a violation of any provision of this article or of any provision of any marketing order or any rule or regulation issued by the Commissioner or commission and effective under this article shall, either refer the matter directly to the Attorney General of this state or to any prosecuting attorney of this state for the institution of legal proceedings thereupon or, if the Commissioner deems it necessary or advisable, immediately call an administrative hearing, pursuant to the provisions of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” governing contested cases, to consider the charges set forth in such verified complaint.

(b) In case the matter is referred directly by the Commissioner to the Attorney General or any prosecuting attorney, it shall be the duty of such officer, if after examination of the complaint and the evidence he believes that a violation has occurred, to bring an appropriate action or actions in a court or courts of competent jurisdiction in this state.

(c) After an administrative hearing, if the Commissioner finds that a violation has occurred, he shall enter his findings and notify the parties to such complaint. In his discretion, the Commissioner shall either refer the matter to the Attorney General for the institution of legal proceedings or notify such parties to cease and desist from further violation. Upon the refusal or failure of such parties to comply or if he finds that the facts or circumstances warrant immediate prosecution, the Commissioner shall file a complaint with the Attorney General or with any prosecuting attorney of this state requesting that such officer commence any or all actions authorized in this article against such respondent or respondents in a court of competent jurisdiction.

History

Ga. L. 1961, p. 301, § 18; Ga. L. 1968, p. 398, § 12; Ga. L. 1969, p. 763, § 19; Code 1981, § 2-8-26; Code 1981, § 2-8-34, as redesignated by Ga. L. 1989, p. 1420, § 1.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 2 Agricultural Commodity Commissions Generally (§§ 2-8-10 — 2-8-38)

2-8-35. Furnishing of false report, statement, record, or marketing order; refusal to furnish certain information.

- (a) Any person who willfully renders or furnishes a false or fraudulent report, statement, or record required pursuant to this article or any marketing order effective under this article shall be guilty of a misdemeanor.
- (b) Any person engaged in the handling or processing of any agricultural commodity or in the wholesale or retail trade thereof who fails or refuses to furnish, upon request, information concerning the name and address of the person from whom he has received an agricultural commodity regulated by a marketing order issued and in effect under this article and the quantity of such commodity received shall be guilty of a misdemeanor.

History

Ga. L. 1961, p. 301, § 18; Ga. L. 1969, p. 763, § 19; Code 1981, § 2-8-27; Code 1981, § 2-8-35, as redesignated by Ga. L. 1989, p. 1420, § 1; Ga. L. 1990, p. 8, § 2.

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Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 2 Agricultural Commodity Commissions Generally (§§ 2-8-10 — 2-8-38)

2-8-36. Criminal penalty.

Any person who violates any provision of this article or any provision of any marketing order duly issued by any commission under this article shall be guilty of a misdemeanor.

History

Ga. L. 1961, p. 301, §§ 18, 25; Ga. L. 1968, p. 398, § 12; Ga. L. 1969, p. 763, §§ 19, 26; Code 1981, § 2-8-28; Code 1981, § 2-8-36, as redesignated by Ga. L. 1989, p. 1420, § 1.

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2-8-37. Penalties and remedies concurrent, alternative, and cumulative.

The penalties and remedies prescribed in this article with respect to any violation mentioned shall be concurrent and alternative. Neither singly nor combined shall such penalties and remedies be exclusive; rather, either singly or combined, such penalties and remedies shall be cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided or allowed by law with respect to any such violation.

History

Ga. L. 1961, p. 301, § 18; Ga. L. 1969, p. 763, § 19; Code 1981, § 2-8-29; Code 1981, § 2-8-37, as redesignated by Ga. L. 1989, p. 1420, § 1; Ga. L. 1990, p. 8, § 2.

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2-8-38. Applicability of article to retailers.

This article shall not be applicable to any retailer of agricultural commodities except to the extent that any retailer also engages in the processing or distribution of agricultural commodities as defined in this article.

History

Ga. L. 1961, p. 301, § 24; Ga. L. 1969, p. 763, § 25; Code 1981, § 2-8-30; Code 1981, § 2-8-38, as redesignated by Ga. L. 1989, p. 1420, § 1.

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O.C.G.A. § 2-8-50

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 3 Agricultural Commodity Commission for Peanuts (§§ 2-8-50 — 2-8-79)

2-8-50. Applicability of article.

This article shall apply only to the Agricultural Commodity Commission for Peanuts.

History

Code 1981, § 2-8-50, enacted by Ga. L. 1989, p. 1420, § 1.

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O.C.G.A. § 2-8-51

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 3 Agricultural Commodity Commission for Peanuts (§§ 2-8-50 — 2-8-79)

2-8-51. Definitions.

As used in this article, the term:

- (1)** “Advertising and sales promotion” means, in addition to the ordinarily accepted meaning thereof, trade promotion and activities for the prevention, modification, or removal of trade barriers which restrict the normal flow of peanuts to market and may include the presentation of facts to and negotiations with state, federal, or foreign governmental agencies on matters which affect the marketing of peanuts included in any marketing order made effective pursuant to this article.
- (2)** “Commission” means the Agricultural Commodity Commission for Peanuts created under this article.
- (3)** “Distributor” means any person who engages in the operation of selling, marketing, or distributing peanuts which he has produced or has purchased or acquired from a producer or which he is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise, but shall not include a retailer as defined in this Code section, except a retailer who purchases or acquires from, or handles on behalf of, any producer peanuts not theretofore subjected to regulation by the marketing order covering peanuts.
- (4)** “Handler” means any person engaged within this state as a distributor in the business of distributing peanuts or any person engaged as a processor in the business of processing peanuts.
- (5)** “Marketing order” means an order issued pursuant to this article prescribing rules and regulations governing the processing, distributing, or handling in any manner of peanuts within this state or establishing an assessment for financing the programs established under this article.
- (6)** “Person” means an individual, firm, corporation, association, or any other business unit or any combination thereof and includes any state agency which engages in any of the commercial activities regulated pursuant to this article.
- (7)** “Peanuts” means peanuts and peanut products produced in this state or any class, variety, or utilization thereof, either in their natural state or as processed by a producer for the purpose of marketing such product or by a processor as defined in this Code section.
- (8)** “Processor” means any person engaged within this state in the operation of receiving, grading, packing, canning, extracting, preserving, grinding, crushing, or changing the form of peanuts for the purpose of preparing peanuts for market or of marketing such peanuts or engaged in any other activities performed for the purpose of preparing such peanuts for market or of marketing such peanuts but shall not include a person engaged in manufacturing another and different product from peanuts, so changed in form. The term “processor” shall not include an agent of the processor nor any person who receives peanuts for or on the account of another person.
- (9)** “Producer” means any person engaged within this state in the business of producing or causing to be produced for market peanuts as defined in this Code section.

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- (10) “Producer marketing” or “marketed by producers” means any or all operations performed by any producer in preparing for market and includes selling, delivering, or disposing of, for commercial purposes, peanuts which he has produced to any handler as defined in this Code section.
- (11) “Retailer” means any person who purchases or acquires peanuts for resale at retail to the general public for consumption off the premises; however, such person shall also be included within the definition of “distributor,” as set forth in this Code section, to the extent that he engages in the business of a distributor as defined in this Code section.
- (12) “Seasonal marketing regulations” means marketing regulations, applicable to a particular marketing order, made effective as prescribed in this article for the purpose of carrying into effect, by administrative order, the marketing regulatory authorizations and the provisions of such marketing order, as such authorizations or provisions may be applicable to or required by changing economic or marketing conditions and requirements from time to time during each marketing season in which such marketing order may operate. Such seasonal marketing regulations shall not extend beyond the marketing order concerned; nor shall they modify or change the language of such marketing order.
- (13) “To distribute” means to engage in the business of a distributor as defined in this Code section.
- (14) “To handle” means to engage in the business of a handler as defined in this Code section.
- (15) “To process” means to engage in the business of a processor as defined in this Code section.

History

Code 1981, § 2-8-51, enacted by Ga. L. 1989, p. 1420, § 1; Ga. L. 1990, p. 8, § 2.

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Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 3 Agricultural Commodity Commission for Peanuts (§§ 2-8-50 — 2-8-79)

2-8-52. Commission continued in existence; powers and duties; continuation of certain rules, regulations, and orders; periodic determination as to continuation of commission.

- (a) The Agricultural Commodity Commission for Peanuts which was initially established August 1, 1961, pursuant to the “Georgia Agricultural Commodities Promotion Act,” (Ga. L. 1961, p. 301), as amended, is continued in existence and is ratified and confirmed as a public corporation and instrumentality of the State of Georgia from and since such date. The Agricultural Commodity Commission for Peanuts shall be organized and constituted, have corporate existence, and possess powers and duties as stated in this article and shall be governed and controlled by this article.
- (b) Marketing Order No. 3 for Peanuts which was adopted by the Agricultural Commodity Commission for Peanuts and which was continued in existence until June 30, 1991, shall continue in effect under the provisions of this article until such date.
- (c) All rules, regulations, and orders of the Agricultural Commodity Commission for Peanuts in force and effect on July 1, 1989, shall remain in effect until otherwise amended or repealed pursuant to this article.
- (d) Prior to April 30, 1991, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-63 to determine whether the commission shall continue to exist and operate under this article.

History

Code 1981, § 2-8-52, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-53. Membership of commission; division of peanut-producing counties into districts; election of members; compensation and expenses; certification of members to Secretary of State.

(a) The Agricultural Commodity Commission for Peanuts shall be composed of five members, who shall be peanut producers to be elected in the manner provided in subsection (b) of this Code section.

(b)

(1) For the purpose of electing the five members of the Agricultural Commodity Commission for Peanuts, the commission shall divide those counties within this state in which peanuts are produced into five districts, each of which shall have approximately equal quota pound production of peanuts. Any county in which peanuts are not produced shall not be included in any of the five districts. Such districts in existence on July 1, 1989, shall remain as constituted on such date until otherwise changed by the commission.

(2) The five producer members of the Agricultural Commodity Commission for Peanuts who are serving as such on July 1, 1989, shall continue as members for the remainder of their unexpired terms. Prior to the expiration of a term of office, it shall be the duty of the commission to conduct an election for a successor. Except as otherwise provided in this Code section, elections shall be called and conducted in the manner specified by the commission. One member shall be elected from each district by the producers of peanuts residing in such district. To be eligible for election, a person must be a peanut producer. No producer of peanuts residing within the district shall be denied the right to seek election to membership on the commission.

(3) A person must receive a majority of the votes cast for a position in order to be elected to such position; provided, however, if only one person qualifies for such position, no election shall be required and that person shall automatically become a member of the commission. If no person receives a majority of the votes cast for such position, a run-off election shall be conducted by the commission. Any member may succeed himself as a member of a commission. Members shall have terms of office of three years each and until their respective successors are elected and qualified.

(4) Vacancies in the membership of the commission shall be filled by election in the same manner as the original election of such members. Any person elected to fill a vacancy shall be elected for the remainder of the unexpired term.

(c) The members of the commission shall receive compensation and reimbursement of expenses as shall be provided by the commission, and such funds shall be payable from the funds of the commission. The commission shall keep comprehensive and detailed records of all compensation and expense reimbursement paid to each member of the commission. In connection with the audits provided for in subsection (h) of Code Section 2-8-67, the state auditor shall annually prepare a comprehensive and detailed report of the compensation and reimbursement paid to each member of the commission and shall provide a copy of such report to the commission; and such report shall be available to any producer of peanuts upon written request of any such producer.

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(d) It shall be the duty of the commission to certify to the Secretary of State the membership of the commission and each change in membership as the same occurs.

History

Code 1981, § 2-8-53, enacted by Ga. L. 1989, p. 1420, § 1; Ga. L. 1991, p. 997, § 1.

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2-8-54. Authority; legal representation; acceptance and use of donations, gifts, and other property; exercise of powers of corporations; continuation of existence of commission; authority to lease or purchase property.

- (a) The commission is authorized to appoint advisory boards, special committees, and individuals, including technical and clerical personnel, to advise, aid, and assist the commission in the performance of its duties. Compensation for such services shall be fixed by the commission and may be paid from the funds of the commission. The Attorney General shall represent the commission in legal matters and shall be the attorney for the commission. If the Attorney General determines that outside legal counsel is necessary or desirable in connection with any legal matter of the commission, he shall so inform the commission and, upon approval of the commission, he shall employ such outside counsel. Compensation for such outside counsel shall be agreed upon between such counsel and the Attorney General, subject to the approval of the commission. Such compensation shall be paid from the funds of the commission. Neither Code Section 16-10-9 nor any other law shall prohibit or be applicable to the employment of such counsel.
- (b) The commission is authorized to accept donations, gifts, and other property and to use the same for commission purposes. The commission may exercise the powers and authority conferred by law upon corporations.
- (c) The commission shall continue as a public corporation and instrumentality of the State of Georgia until abolished by law or until terminated by referendum.
- (d) The commission is authorized to acquire, lease as lessee, purchase, hold, own, and use any franchise or real or personal property, whether tangible or intangible, or any interest therein and, whenever the same is no longer required for purposes of the commission, to sell, lease as lessor, transfer, or dispose thereof or to exchange the same for other property or rights which are useful for its purposes.

History

Code 1981, § 2-8-54, enacted by Ga. L. 1989, p. 1420, § 1; Ga. L. 1999, p. 765, § 1.

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2-8-55. Commission as public corporation; name used in contracts and legal proceedings; chairman; quorum; oath of office; certification of election.

The commission shall be a public corporation and an instrumentality of the State of Georgia. By that name, style, and title, the commission may contract and be contracted with, implead and be impleaded, and complain and defend in all courts. The commission shall name its chairman and determine a quorum for the transaction of business. The commission shall assume the duties and exercise the authority provided in this article without further formality than that provided in this article. Each member of the commission shall be a public officer and shall take an oath of office faithfully to perform his duties. Such oath shall be administered by the Governor or some other person qualified to administer oaths. The fact of a member's election shall be certified to the Secretary of State, who shall issue the appropriate commission under the seal of his office.

History

Code 1981, § 2-8-55, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-56. Receipt, collection, and disbursal of funds.

The commission is authorized and it shall be its duty to receive, collect, and disburse the funds of the commission.

History

Code 1981, § 2-8-56, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-57. Funds held in trust; deposit, accounting, and disbursement of funds; exemption from requirements applicable to state funds.

Funds received by the commission under this article shall be held in trust for the commission. Such funds shall be deposited, accounted for, and disbursed in the same manner as the funds of this state but shall not be required to be deposited in the state treasury and appropriated therefrom as are other state funds. It is the express intent and purpose of this article to authorize the receipt, collection, and disbursement by the commission of such funds as trust funds of the commission without complying with the requirement applicable to funds collected for the use and benefit of the state.

History

Code 1981, § 2-8-57, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-58. Bond of persons handling funds under article; signing of checks, drafts, and negotiable instruments; election, powers, and duties of treasurer.

Any persons who handle funds under this article shall be bonded with good and sufficient surety in an amount determined by the commission for the accounting of any and all funds coming into their hands. All checks, drafts, and negotiable instruments which are drawn on or payable from the funds of the Agricultural Commodity Commission for Peanuts shall be signed by either the chairman or treasurer of the commission. It shall be the duty of the commission to elect annually a treasurer from among the membership of the commission. The treasurer shall have such powers and perform such duties as shall be provided by the commission.

History

Code 1981, § 2-8-58, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-59. Liability of commission members.

The members and employees of the commission shall not be held responsible individually in any way whatsoever to any producer, processor, distributor, or other handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the commission. The liability of the members of the commission shall be several and not joint and no member shall be liable for the default of any other member.

History

Code 1981, § 2-8-59, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-60. Authority to confer with and make information available to governmental authorities of this state, other states, and the United States.

The commission is authorized to confer with and to make any information obtained pursuant to this article available to the duly constituted governmental authorities of this state, of other states, of political subdivisions of this state or other states, and of the United States who, by reason of their duties, have legitimate concern with the subject and to cooperate with all such authorities for the purpose of obtaining administrative uniformity and achieving the objectives of this article.

History

Code 1981, § 2-8-60, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-61. Issuance, administration, and enforcement of marketing orders; notice and hearing as to proposed order; information from persons who may be affected by order.

(a) The commission is authorized to issue, administer, and enforce the provisions of marketing orders regulating producer marketing or the handling of peanuts within this state.

(b)

(1) Whenever the commission has reason to believe that the issuance of a marketing order or amendments to an existing marketing order will tend to effectuate the declared policy of this article with respect to peanuts, it shall, either upon its own motion or upon the application of any producer of peanuts or any organization of such persons, give due notice of and an opportunity for a public hearing upon a proposed marketing order or amendments to an existing marketing order.

(2) Notice of any hearing called for such purpose shall be given by the commission by publishing a notice of such hearing for a period of not less than five days in a newspaper of general circulation published in the capital of the state and in such other newspapers as the commission may prescribe. No such public hearing shall be held prior to five days after the last day of such period of publication. The commission shall also mail a copy of such notice of hearing and a copy of such proposed marketing order or proposed amendments to all producers of peanuts whose names and addresses appear upon lists of such persons on file with the commission and who may be directly affected by the provisions of such proposed marketing order or such proposed amendments. Such notice of hearing shall in all respects comply with the requirements of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(3) The hearing shall be public and all testimony shall be received under oath. A full and complete record of the proceedings at such hearing shall be made and maintained on file in the office of the commission. The hearing shall, in all respects, be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The hearing may be conducted by the commission or by a member of the commission, as may be designated by the commission in each instance, but no decision shall be made based on hearings conducted other than by the commission itself, at which a majority of the members thereof are present, until the members of the commission have been afforded an opportunity to review the hearing record. Where the commission conducts hearings, its recommendation shall be based on the findings reached after a review of the record of the hearing.

(c)

(1) In order to provide the commission with accurate and reliable information with respect to the persons who may be directly affected by any proposed marketing order for peanuts when such information is not then on file with the commission, the commission is authorized and directed, whenever the commission has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of this article or upon receipt of a written application for a hearing pursuant to subsection (b) of this Code section, to notify all handlers of peanuts, by publication of a

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notice as required in paragraph (2) of this subsection, to file with the commission within ten days from the last date of such publication a report, properly certified, showing:

- (A) The correct name and address of such handler;
- (B) The quantities of peanuts affected by the proposed marketing order handled by such handler in the marketing season next preceding the filing of such report;
- (C) The correct names and addresses of all producers of peanuts who may be directly affected by such proposed marketing order, from whom such handler received peanuts in the marketing season next preceding the filing of such report; and
- (D) The quantities of peanuts received by such handler from each such producer in the marketing season next preceding the filing of such report.

(2) The notice to handlers requiring them to file a report shall be published by the commission for a period of not less than five days in a newspaper of general circulation published in the capital of the state and in such other newspaper or newspapers as the commission may prescribe. The commission shall also mail a copy of such notice to all handlers of peanuts whose names and addresses appear upon the lists on file with the commission who may be directly affected by such proposed marketing order.

(3) Each handler of peanuts directly affected by a proposed marketing order shall file his verified report with the commission within the time specified in paragraph (1) of this subsection. Failure or refusal of any handler to file such report shall not invalidate any proceeding taken or marketing order issued. The commission is authorized and directed to proceed upon the basis of such information and reports as may otherwise be available.

(4) From the reports so filed and the information so received or available to the commission, including any proper corrections, the commission shall prepare a list of the names and addresses of such producers and the volume of peanuts produced or marketed by all such producers and a list of the names and addresses of such handlers and the volume of peanuts handled by all such handlers, directly affected by such proposed marketing order or amendments thereto, in the preceding marketing season. Such lists shall constitute complete and conclusive lists for use in any finding made by the commission pursuant to subsection (a) of Code Section 2-8-63 and such findings shall be conclusive.

(5) The information contained in the individual reports of handlers filed with the commission pursuant to this Code section shall not be made public in such form. The information contained in such reports may be prepared in combined form for use by the commission, its agents, or other interested persons in the formulation, administration, and enforcement of a marketing order or may be made available pursuant to court order. Such information shall not be made available to anyone for private purposes.

History

Code 1981, § 2-8-61, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-62. Recommendation of promulgation of marketing order; permissible provisions of orders; effectiveness of orders heretofore adopted and in effect on July 1, 1989.

(a) If, upon the basis of the record of testimony and documentary evidence received at the hearing provided for in Code Section 2-8-61 and the facts officially noticed therein from official publications or institutions of recognized standing, the commission determines that the issuance of a marketing order or an amendment will tend to effectuate the intent and purpose of this article, it may recommend the promulgation of a marketing order or amendment with respect to the matters specified in the hearing notice and supported by the record, containing any or all of the following provisions, but no others:

(1) Provisions regulating the period or periods during which peanuts or any grade, size, or quality of peanuts may be processed, distributed, or otherwise marketed within this state by any and all persons engaged in such processing, distributing, or marketing within this state; such periods shall be established by the commission so as to conform to the better principles of sound agricultural practices with respect to production of the peanuts in order to secure, so far as is commercially practical, a sufficient supply of good quality of each grade of peanuts proportionate to normal market demand and to prevent disruptive marketing practices likely to result in oversupply or scarcity, which create unnecessarily inflated prices to consumers and handlers, depressed prices to producers, or salability of products of inferior grade and quality due to unavailability of good quality products;

(2) Provisions establishing or providing for establishing, with respect to peanuts, either as delivered by producers to handlers or processors or as handled, processed, or otherwise prepared for market or as marketed by producers, handlers, or processors:

(A) Grading standards of quality, condition, size, maturity, or pack, which standards may include minimum standards, provided that the standards so established shall not be established below any minimum standards prescribed by law for peanuts; and

(B) Uniform inspection and grading of peanuts in accordance with the standards so established.

(3) Provisions for the establishment of plans for advertising and sales promotion to maintain present markets or to create new or larger markets for peanuts grown in this state or for the prevention, modification, or removal of trade barriers which obstruct the normal flow of peanuts to market. The commission is authorized to prepare, issue, administer, and enforce plans for promoting the sale of peanuts, provided that any such plan shall be directed toward promoting and increasing the sale, use, and utilization of peanuts without reference to a particular brand or trade name; and provided, further, that no advertising or sales promotion program shall be issued by the commission which makes use of false or unwarranted claims in behalf of any such product or disparages the quality, value, sale, or use of any other agricultural commodity;

(4) Provisions prohibiting unfair trade practices by which any producer or handler tends toward establishment of monopoly, unfairly discriminates among customers as to price or quality, or engages in fraudulent, deceptive, or misleading representations, concealment, or other similar sharp business

practices which are harmful to his or its customers, injurious to competitors, likely to bring into disrepute persons generally engaged in production and handling of peanuts, or detrimental to the intent and purpose of this article;

(5) Provisions for carrying on research studies in promoting the production, marketing, sale, use and utilization, processing, and improvement of peanuts or any combination thereof and for the expenditure of moneys for such purposes. In any research carried on under this paragraph, the dean of the College of Agricultural and Environmental Sciences of the University of Georgia and the commission shall cooperate in selecting the research project or projects to be carried on from time to time. Insofar as practicable such projects shall be carried out by the College of Agricultural and Environmental Sciences but, if the dean of the college and the commission determine that the college has no facilities for a particular project or that some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the commission;

(6) Provisions establishing or providing authority for establishing, either as peanuts are produced or are delivered by producers to handlers or as peanuts are handled or otherwise prepared for market or as peanuts are marketed by producers or handlers, an educational program designed to acquaint producers, handlers, or other interested persons with quality improvement, including sanitation practices, procedures, or methods as applied to peanuts;

(7) Provisions for the promotion of the marketing of surplus peanuts through the establishment of surplus, stabilization, or by-product pools for peanuts or any grade, size, quality, or condition thereof, providing for the sale of the peanuts in any such pool and for the equitable distribution among the persons participating therein of the net returns derived from the sale of such peanuts. Whenever the marketing order authorizes the establishment of any such pool or pools, the commission shall have the power to receive such peanuts from each producer or handler, to handle the same according to the grade, size, quality, or condition thereof, and to account to each producer or handler participating therein upon a pro rata basis for the net proceeds derived from the sale thereof. Whenever the marketing order authorizes the establishment of a surplus, stabilization, or by-product pool, the commission shall have authority to promote the marketing of surplus peanuts by making arrangements for and operating any necessary facilities for the storing, financing, grading, hauling, packing, servicing, processing, preparing for market, selling, and disposing of the contents of any pools provided for in this paragraph. Whenever the marketing order authorizes the establishment of any type of pool authorized in this paragraph, the commission shall have authority to create, by a uniform assessment upon producers, or to maintain and disburse, upon some other uniform and equitable basis, an equalization fund to be used for the removal of any inequalities between producers or handlers participating in any pool; and

(8) Provisions for the establishment and management of a stabilization fund to compensate producers of peanuts for peanuts which must be diverted or which fail to qualify for marketing or sale in regular marketing channels due to grade, quality, or size regulations. The commission shall be authorized to provide, by regulations, for the administration of such stabilization fund, including regulations as to the type, quality or grade of peanuts, the amount of stabilization support, reporting, and qualifying procedures. Whenever the marketing order authorizes the establishment of any type of stabilization fund authorized in this paragraph, the commission shall have the authority to create such fund by a uniform assessment upon producers of peanuts and to maintain and disburse such stabilization fund in accordance with the purposes set out in this paragraph.

(b) All provisions authorized by this Code section which are contained in marketing orders and amendments thereto heretofore adopted by the Agricultural Commodity Commission for Peanuts and in effect on July 1, 1989, shall be and remain of full force and effect until repealed or modified by the commission as provided in this article.

History

O.C.G.A. § 2-8-62

Code 1981, § 2-8-62, enacted by Ga. L. 1989, p. 1420, § 1; Ga. L. 1995, p. 10, § 2.

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O.C.G.A. § 2-8-63

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 3 Agricultural Commodity Commission for Peanuts (§§ 2-8-50 — 2-8-79)

2-8-63. Finding of assent or approval of producers required for marketing order to become effective; commission authorized to issue orders regulating peanuts; amendments; notice; rules and regulations; expiration and extension of orders.

(a)

(1) No marketing order or major amendment thereto, directly affecting producers or producer marketing, issued pursuant to this article, shall be made effective by the commission until the finding of one or more of the following:

(A) That such marketing order or amendment thereto has been assented to in writing by not less than 65 percent of the producers who are engaged within the area specified in such marketing order or amendment thereto in the production for market or the producer marketing of not less than 51 percent of the peanuts specified therein in commercial quantities;

(B) That such marketing order or amendment thereto has been assented to in writing by producers who produce not less than 65 percent of the volume of peanuts and by 51 percent of the total number of producers so engaged; or

(C) That such marketing order or amendment thereto has been approved or favored by producers in a referendum among producers directly affected if the valid votes cast in such referendum in favor of such marketing order or amendment thereto represent not less than 51 percent of the total number of producers of peanuts of record with the commission who marketed not less than 51 percent of the total quantity of the peanuts marketed in the next preceding marketing season by the total number of producers of record with the commission.

(2) Whenever any marketing order or any major amendment to any marketing order is issued by the commission, the commission shall determine whether assent, approval, or favor thereto of the producers shall be by written assents or by referendum.

(3) If the commission determines that a referendum shall be had, the commission shall establish a referendum period of 30 days. At the close of such referendum period, the commission shall count and tabulate the ballots filed during such period. If from such tabulation the commission finds that the number of producers voting in favor of such marketing order or amendment thereto is not less than 51 percent of the total number of producers of record with the commission and that such producers who voted in favor of the marketing order or amendment thereto marketed not less than 51 percent of the total volume of peanuts marketed by all producers of record with the commission during the marketing season next preceding such referendum, the commission may make such marketing order or amendment thereto effective. The commission is authorized to prescribe such additional procedures as may be necessary to conduct such referendum.

(4) At a public hearing held to consider a proposed marketing order or major amendments to an existing marketing order which directly affect producers or producer marketing, the commission shall also receive testimony or evidence from which it can determine whether the assent, approval, or favor

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of such producers shall be determined by written assents or by referendum as prescribed in this Code section. Upon the conclusion of any hearing which involves a marketing order or a major amendment thereto directly affecting producers or producer marketing, the commission shall make a finding, based upon the testimony and evidence received, whether producer assent, approval, or favor shall be determined by written assents or by referendum. If the commission finds that a referendum shall be had, it shall direct that a referendum be held in accordance with this subsection.

(5) Any referendum or assent in writing to a marketing order under paragraphs (3), (5), and (6) of subsection (a) of Code Section 2-8-62 shall be held pursuant to this Code section; and upon the approval thereof by two-thirds of those voting therein, where the total vote cast thereon represents not less than 25 percent of those eligible to vote or where the total vote cast thereon represents not less than 25 percent of the total amount of peanuts, such marketing order may be declared by the commission to be approved.

(6) In the event of the failure of any proposed marketing order to be approved, no additional referendum thereon shall be held during a period of 12 months from the date of the close of the previous referendum period.

(b) Subject to the provisions, restrictions, and limitations imposed in this article, the commission may issue marketing orders regulating producer marketing and the processing, distributing, or handling in any manner of peanuts by any and all persons engaged in such producer marketing, processing, distributing, or handling of peanuts within this state.

(c)

(1) Upon the recommendation of not less than three members of the commission, the commission may make effective minor amendments to a marketing order. The commission may require a public hearing upon minor amendments if in its opinion the substance of such minor amendments so warrants. The commission, however, shall not be required to submit minor amendments for written assents or referendum approval.

(2) In making effective major amendments to a marketing order, the commission shall follow the same procedures prescribed in this article for the institution of a marketing order. For the purpose of this article, a major amendment to a marketing order shall include, but shall not be limited to, any amendment which adds to or deletes from any such marketing order any of the following types of regulations or authorizations:

(A) Authority for regulating the period or periods during which peanuts or any grade, size, or quality of such peanuts may be processed, distributed, or otherwise marketed within this state;

(B) Authority for the establishment of uniform grading and inspection of peanuts and the establishment of grading standards of quality, condition, size, or pack of such peanuts;

(C) Authority for the establishment of plans for advertising and sales promotion of peanuts;

(D) Authority to prohibit unfair trade practices;

(E) Authority for carrying out research studies in the production, processing, or distribution of peanuts;

(F) Authority to increase an assessment rate beyond the maximum rate authorized by the marketing order in effect; or

(G) Authority to extend the application of the provisions of any marketing order to portions or uses of peanuts not previously subject to such provisions or to restrict or extend the application of such provisions upon the producers or handlers of such portions or uses of such peanuts.

(3) Modification of any provisions of any marketing order in effect, for the purpose of clarifying the meaning or application of such provisions or of modifying administrative procedures for carrying out such provisions, are declared not to be a major amendment of such marketing order.

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(d) Upon the issuance of any order making effective a marketing order or any suspension, amendment, or termination thereof, a notice thereof shall be posted on a public bulletin board maintained at the offices of the commission; and a copy of such notice shall be published as the commission may prescribe. No marketing order nor any suspension, amendment, or termination thereof shall become effective until the termination of a period of five days from the date of such posting and publication. It shall also be the duty of the commission to mail a copy of the notice of such issuance to all persons directly affected by the terms of such marketing order, suspension, amendment, or termination whose names and addresses are on file in the office of the commission and to every person who files in the office of the commission a written request for such notice.

(e) The commission shall have the power, consistent with this article and in accordance with marketing orders and agreements made effective under this article, to establish such general rules and regulations for uniform application to all marketing orders issued under this article as may be necessary to facilitate the administration and enforcement of such marketing orders. The provisions of subsection (d) of this Code section relative to posting, publication, and time of taking effect shall be applicable to any such general rule or regulation established pursuant to this subsection and applicable to marketing orders generally. Such notice shall be furnished by the commission for each marketing order in active operation.

(f) The commission shall have the power, consistent with this article, to establish administrative rules and regulations for each marketing order issued and made effective as may be necessary to facilitate the supervision, administration, and enforcement of each such order. The provisions of subsection (d) of this Code section relative to posting, publication, mailing of notice, and time of taking effect shall be applicable to any such administrative rules and regulations.

(g) Unless extended as provided in this Code section, all marketing orders issued under the authority of this article shall expire, terminate, and become of no force and effect at the expiration of three years from the date of the issuance of the original marketing order or, if such marketing order has been extended, at the expiration of three years after the date of any such extension.

(h) In the event either one of the following conditions is complied with, a marketing order shall be extended for a period of three years after the date of its original expiration:

(1) Assent has been given in writing to such marketing order by not less than two-thirds of the producers participating; or

(2) Approval or favor of such marketing order has been given by producers in a referendum among producers directly affected if at least 66 $\frac{2}{3}$ percent of the votes cast in such referendum favor the extension of such marketing order.

(i) If the commission determines that a referendum shall be held, the commission shall establish a referendum period of 30 days, such referendum period to terminate at least 30 days prior to the expiration date of the marketing order which is the subject of such referendum. At the close of such referendum period, the commission shall count and tabulate the ballots cast during such period. If from such tabulation the commission finds that the number of producers voting in favor of the extension of such marketing order is not less than 66 $\frac{2}{3}$ percent of the total number of ballots cast, then such marketing order shall be extended for a period of three years after the expiration date. If it is found from the tabulation of such referendum that the number of producers who had voted in favor of the extension of such marketing order is less than the required 66 $\frac{2}{3}$ percent of the total number of ballots cast, then the marketing order shall expire, terminate, and be of no force and effect as provided in subsection (g) of this Code section.

History

Code 1981, § 2-8-63, enacted by Ga. L. 1989, p. 1420, § 1.

O.C.G.A. § 2-8-63

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2-8-64. Limiting of application of marketing order to certain marketing areas or portions of state.

Marketing orders issued by the commission under this article may be limited in their application by prescribing the marketing areas or portions of the state in which a particular order shall be effective, provided that no marketing order shall be issued by the commission unless it embraces all persons of a like class who are engaged in a specific and distinctive agricultural industry or trade within this state.

History

Code 1981, § 2-8-64, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-65. Seasonal marketing regulations; legislative findings; interpretation of Code section.

(a) The commission without prior notice to and public hearing for the producers or handlers of the peanuts directly affected, may issue and make effective seasonal marketing regulations or modifications thereof, provided that the marketing order, made effective after due notice, public hearing, and written assent as required by this article, (1) provides for the issuance or modification of such seasonal marketing regulations without requiring such prior notice and public hearing, and (2) sets forth the limits within which such seasonal marketing regulations may be made effective or subsequently modified by the commission; and provided, further, that the commission finds that such seasonal marketing regulations or modifications thereof are reasonable and proper and a practical means of carrying out the marketing provisions authorized in such marketing order or agreement and will effectuate the declared purposes and policies of this article with respect to peanuts. Notice of the issuance and the effective date of any such seasonal marketing regulations or modifications thereof shall be given by the commission to all producers and handlers directly affected by any such regulations in the manner and within the time specified in the applicable marketing order or, in absence of such, as may be specified by the commission or as specified in the administrative rules and regulations made effective for such marketing order pursuant to subsection (f) of Code Section 2-8-63.

(b) It is recognized that with respect to some peanuts, marketing, weather, and other conditions may change so rapidly as to require changes in seasonal marketing regulations from week to week or more often. It is intended that this Code section be interpreted liberally so that the commission may be enabled to carry out the marketing regulations and procedures authorized in this Code section in a practical and effective manner.

History

Code 1981, § 2-8-65, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-66. Applicability of orders regulating minimum quality, condition, size, or maturity.

Whenever producers or handlers of peanuts regulated by a marketing order issued by the commission pursuant to this article are required to comply with minimum quality, condition, size, or maturity regulations, no person, except as otherwise provided in such order, shall process, distribute, or otherwise handle any of such peanuts from any source, whether produced within or outside this state, which peanuts do not meet such minimum requirements applicable to producers or handlers of such peanuts in this state, provided that such regulations shall not apply to any peanuts which have been produced outside of this state and are in transit on the effective date of the regulations.

History

Code 1981, § 2-8-66, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-67. Assessments to defray expenses of marketing orders; budgets for administration; authority to borrow money; contributions in lieu of advance deposits; collection of assessments; rules; enforcement of payment; deposit and disbursement of moneys; investment of moneys.

(a) For the purpose of providing funds to defray the necessary expenses incurred by the commission in the formulation, issuance, administration, and enforcement of each marketing order issued under this article, each such marketing order shall provide for the levying and collection of assessments in sufficient amounts to defray such expenses. Each marketing order shall indicate the maximum rate of any such assessment which may be collected and the proportion, if any, payable by each producer and handler directly regulated or affected by such marketing order. In administering such marketing order, the commission shall adopt, from time to time, budgets to cover necessary expenses and the assessment rate necessary to provide sufficient funds. If the commission finds that each such budget and assessment rate are proper and equitable and will provide sufficient moneys to defray the necessary expenses, it may approve such budget and rate of assessment and order that each producer and handler so assessed shall pay to the commission, at such times and in such installments as the commission may prescribe, an assessment, based upon the units in which peanuts are marketed or upon any other uniform basis which the commission determines to be reasonable and equitable, but in amounts which (1) in the case of producers will not exceed 2 ½ percent of the gross dollar volume of sales of the peanuts affected by all such producers regulated by such marketing order, or (2) in the case of processors, distributors, or other handlers will not exceed 2 ½ percent of the gross dollar volume of purchases of peanuts affected by the marketing order from producers or of the gross dollar volume of sales of peanuts affected by the marketing order and handled by all such processors, distributors, or other handlers regulated by such marketing order during the marketing season or seasons during which such marketing order is effective.

(b) Each marketing order which authorizes the carrying out of advertising and sales promotion plans shall provide for the levying and collection of assessments in sufficient amounts to defray the expenses of such activities. Each such marketing order shall indicate the maximum rate of any such assessment and the proportion, if any, payable by each producer and handler directly regulated or affected by such marketing order. The commission shall adopt budgets to cover such expenses and establish the assessment rate necessary to provide sufficient funds. If the commission finds that each such budget and assessment rate are proper and equitable and will provide sufficient moneys to defray such expenses, they may approve such budget and approve and levy such assessment. Any assessments so established shall be based upon the units in which peanuts are marketed or upon any other uniform basis which the commission determines to be proper and equitable. Any assessment rates established under this subsection shall be in amounts not to exceed 4 percent of the gross dollar volume of sales by all producers or by all processors, distributors, or other handlers of peanuts regulated by such marketing order during the marketing season or seasons during which such marketing order is effective.

(c) In lieu of the assessments to defray the costs of formulation, issuance, administration, and enforcement of the marketing order and of advertising or sales promotion provided for in subsections (a) and (b) of this Code section, if the marketing order contains provisions for advertising or sales promotion as authorized in

this article, the commission may approve and fix one assessment not exceeding 6 ½ percent of the gross dollar volume of sales of such peanuts by all producers or by all processors, distributors, or other handlers of such peanuts regulated by such marketing order during the marketing season or seasons during which such marketing order is effective. The method and manner of assessment and collection thereof and the limitations and restrictions applicable thereupon shall conform in all respects with subsection (b) of this Code section, except as to the maximum amount of such assessment. In such case, the commission shall approve the proportions of such assessments which may be expended to defray the costs of formulation, issuance, administration, and enforcement of the marketing order and of such advertising or sales promotion program, provided that the proportion of such assessments which may be allocated in such manner to defray the cost of such administrative activities for such marketing order shall in no case exceed the maximum amount authorized in subsection (a) of this Code section.

(d) In the event that the commission has reason to believe that the administration of a marketing order will be facilitated or the attainment of the purposes and objectives of the marketing order will be promoted thereby, the commission is authorized to borrow money, with or without interest, to carry out any provision of any marketing order authorized by this article and may hypothecate anticipated assessment collections applicable to such respective provisions.

(e) In lieu of requiring advance deposits for defraying administrative or advertising and sales promotion expenses until such time as sufficient moneys are collected for such purposes from the payment of assessments established pursuant to this Code section, the commission is authorized to receive and disburse for such purposes contributions made by producers, processors, distributors, or other handlers. The commission shall not be held responsible for the repayment of such contributions, provided that whenever collections from the payment of established assessments credited to the respective marketing order accounts are sufficient so to warrant, the commission shall repay contributions or shall authorize the application of such contributions to the assessment obligations of the persons who made such contributions.

(f) Each and every handler of peanuts for which an assessment has been established by or pursuant to this article shall, at the time of purchase of any such peanuts from the producer thereof, collect from such producer the assessment established by or in accordance with this article and remit the same to the commission. The liability of such handler under this article shall not be discharged except upon receipt of such sums by the commission. For the purpose of this subsection, to ensure compliance with this Code section, and for the administrative convenience of the commission in enforcing payment and collection of such assessments, delivery by a producer to a handler for processing of any peanuts upon which an assessment has been established shall be deemed a sale of such peanuts within the meaning of this Code section; and the assessment shall thereupon attach and become due, regardless of whether such handler actually purchases such peanuts for himself or only processes same for a consideration payable by the producer or another person and such peanuts are thereafter sold to another person, provided that upon collection of such assessment by the handler to whom such peanuts are so delivered for processing only, no further or additional assessment shall attach or become due by reason of the subsequent sale by such producer of such processed peanuts to another person or handler.

(g) The commission may prescribe such rules as may be necessary and reasonable for the orderly reporting and transmitting of assessments by handlers and may take all legal action necessary to enforce payment of the same by handlers. The commission is authorized to issue executions for the same in like manner as executions are issued for ad valorem property taxes due the state. It shall be the duty of each and every sheriff of this state and their lawful deputies, upon the request of the commission, to levy and collect such executions and to make their return thereof to the commission in like manner as such tax executions are levied and return thereof made to county tax collectors and tax commissioners. The commission shall likewise be authorized to collect, by execution as provided in this subsection or otherwise, directly from the producer against whom any assessment levied under this Code section may be found due whenever it is determined that such producer has sold such affected peanuts giving rise to such liability to a person other than to a handler who has collected such assessment and is required by this Code section to remit the same to the commission. Furthermore, the commission may proceed against such producer and

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the purchaser of such peanuts simultaneously if the purchaser is a handler required to collect such assessment, until satisfaction is obtained.

(h) Any moneys collected by the commission pursuant to this article shall be deposited in a bank or other depository approved by the commission and shall be disbursed by the commission only for the necessary expenses incurred by the commission, as approved by the commission. Funds so collected shall be deposited and disbursed in conformity with appropriate rules and regulations prescribed by the commission. All such expenditures by the commission shall be audited at least annually by the state auditor and a copy of such audit shall be delivered within 30 days after the completion thereof to the Governor and the commission. If the commission is abolished, any funds remaining in its hands at such time shall be used to pay the existing obligations of the commission and the expenses incurred in winding up the affairs of the commission. Any excess remaining shall escheat to the state and shall be paid into the state treasury as unclaimed trust funds.

(i) Moneys deposited by the commission pursuant to this Code section which the commission determines are available for investment may be invested or reinvested by the commission as provided for funds of this state or of any retirement system created by law, provided that all moneys invested shall be invested in those areas of production that will provide a return at the highest bank interest rate available. It shall be the duty of the commission annually to review these investments and determine whether they are in compliance with this Code section.

History

Code 1981, § 2-8-67, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-68. Assessment constitutes personal debt; action for collection; fee for late payment; remedies cumulative.

(a) Any assessment levied or established in accordance with this article in such specified amount as may be determined by the commission pursuant to this article shall constitute a personal debt of every person so assessed and shall be due and payable to the commission when payment is called for by the commission. In the event of the failure of such person to pay any such assessment upon the date determined by the commission, the commission may file an action against such person in a court of competent jurisdiction for the collection thereof.

(b) In the event that any producer or handler duly assessed pursuant to this article fails to pay to the commission the amount so assessed on or before the date specified by the commission, the commission is authorized to add to such unpaid assessment an amount not exceeding 10 percent of such unpaid assessment to defray the cost of enforcing the collection of such unpaid assessment.

(c) The provisions of subsection (a) of this Code section with respect to collection of assessments by action are in addition to and cumulative of the provisions of this article authorizing the issuance of executions for assessments by the commission. The 10 percent penalty authorized to be assessed upon delinquent assessments under subsection (b) of this Code section may likewise be included in any execution issued by the commission. Such remedies may be pursued concurrently until satisfaction is obtained upon either. Any penalty recovered shall become a part of the principal assessment levied and shall be for the use of the commission as are other moneys received under this article.

History

Code 1981, § 2-8-68, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-69. Books and records of processors and distributors; furnishing information to commission; inspection of books and records; confidentiality; enforcement.

- (a) The commission may require any and all processors or distributors subject to the provisions of any marketing order issued pursuant to this article:
- (1) To maintain books and records reflecting their operations under the marketing order;
 - (2) To furnish to the commission or its duly authorized or designated representatives such information as may from time to time be requested by them relating to operations under the marketing order; and
 - (3) To permit inspection by the commission or its duly authorized or designated representatives of such portions of such books and records as relate to operations under the marketing order.
- (b) Information obtained by any person under this Code section shall be confidential and shall not be disclosed by him to any other person, except to a person with like right to obtain the information or to any attorney employed to give legal advice thereupon or by court order.
- (c) In order to carry out the purposes of this Code section, the commission may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of books, records, or documents of any kind.

History

Code 1981, § 2-8-69, enacted by Ga. L. 1989, p. 1420, § 1.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 3 Agricultural Commodity Commission for Peanuts (§§ 2-8-50 — 2-8-79)

2-8-70. Use of designations of grade, quality, or condition without complying with regulations or marketing order.

Whenever the use by a producer or handler of a particular emblem, label, certificate, or other distinctive designation of grade, quality, or condition, other than grade or other quality designations then in effect pursuant to state or federal grade standards, is made contingent upon compliance with certain production or handling regulations authorized by a marketing order issued and made effective under this article, it shall be unlawful and a violation of this article for any person who is not participating in and complying with such order or regulations to use such designation of grade, quality, or condition.

History

Code 1981, § 2-8-70, enacted by Ga. L. 1989, p. 1420, § 1.

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O.C.G.A. § 2-8-71

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2-8-71. Entry and inspection of premises to check compliance with marketing order; holding of lot of peanuts to ascertain compliance; affixing of notice of noncompliance; service of notice of noncompliance; correction of deficiencies; disposal of lot; applicability.

- (a) Any authorized inspector or other authorized person discharging his duties in the checking of compliance with any marketing order made effective pursuant to this article may enter during normal business hours and inspect any premises, enclosure, building, or conveyance where he has reason to believe any peanuts subject to a marketing order are produced, stored, being prepared for market, or marketed and may inspect or cause to be inspected such representative samples of the peanuts as may be necessary to determine whether or not any lot of such peanuts is in compliance with applicable regulations of any marketing order made effective pursuant to this article.
- (b) Any authorized inspector or other authorized person in the discharge of his duties, if he has reason to believe that a lot of any peanuts subject to a marketing order issued under this article is not in compliance with the requirements of such marketing order or of marketing rules and regulations issued pursuant thereto, as to quality, condition, size, maturity, pack, labeling, or markings, may hold such lot for a reasonable period of time sufficient to enable such officer to ascertain by an authorized inspection whether such lot complies with such marketing requirements, but in any event not to exceed 72 hours, except as provided in this Code section.
- (c)
- (1) Following inspection, an inspector or other authorized person may affix to any lot which is determined to be in noncompliance an official notice, warning tag, or other appropriate marking warning that the lot is held and stating the reasons therefor. It shall be unlawful for any person, other than an authorized inspector or enforcing officer, to detach, alter, deface, or destroy any such official notice, warning tag, or marking so affixed to any such lot or to remove or dispose of such lot in any manner or under conditions other than as prescribed in such notice of noncompliance, except upon written permission of an authorized enforcing officer or by order of a court of competent jurisdiction.
- (2) The commission or the authorized person by whom such lot is being held shall serve the person in possession of such lot with a notice of noncompliance. Such notice shall be served in person or by mail to the last known address of the person in possession. It shall be the duty of the person in possession to notify the owner of the lot or other persons having an interest therein of the serving of such notice of noncompliance.
- (3) Such notice of noncompliance shall include a description of the lot and the place where and reasons for which it is held and shall cite the applicable marketing order or marketing rules and regulations and the Code section upon which the notice of noncompliance is based.
- (d)
- (1) The owner of a lot shall have not more than 72 hours from the time of the service of a notice of noncompliance for reconditioning or for the correction of the deficiencies noted in the notice of

noncompliance. If such lot is reconditioned or the deficiencies are corrected, the enforcing officer shall remove the warning tags or markings and release the lot for marketing, provided that with the consent of the owner of the lot, the enforcing officer is authorized to divert the lot to other lawful uses or to destroy the lot.

(2)

(A) If the owner of the lot fails or refuses to give consent to its diversion to other lawful uses or to its destruction or if the lot has not been reconditioned or the deficiencies otherwise corrected so as to bring the lot into compliance within the time specified in the notice, then the enforcing officer shall proceed as provided in this subsection.

(B) The commission may file a verified petition in the superior court of the county where the peanuts are held or the county of the residence of the owner thereof requesting permission to divert such lot to any other available lawful use or to destroy such lot. Such verified petition shall show the condition of the lot; that the lot is situated within the territorial jurisdiction of the court in which the petition is being filed or that the owner thereof resides within the jurisdiction of the court; that the lot is held and the notice of noncompliance has been served as provided in this Code section; that the lot has not been reconditioned as required; the name and address of the owner and the person in possession of the lot; and that the owner has refused permission to divert or to destroy the lot. Upon the filing of such verified petition the court may issue an order to show cause, returnable five days after service upon the owner, why the lot shall not be reconditioned or the deficiencies corrected or why the lot shall not be diverted to other lawful uses or destroyed. The owner of the lot may, prior to the date when the order to show cause is returnable, either recondition or correct the deficiencies in the lot so as to bring the lot into compliance or file at or before the hearing on the order an answer with the court showing why the lot should not be reconditioned or the deficiencies corrected so as to bring it into compliance or showing why the lot should not be diverted to other lawful uses or destroyed.

(C) If, at the expiration of the five days, the owner of the lot has failed or refused to recondition or to correct the deficiencies so as to bring the lot into compliance, the court may enter judgment ordering that the lot be reconditioned, diverted to any other lawful uses, or destroyed in the manner directed by the court or that the lot be relabeled or otherwise processed or that the lot be sold or released upon such condition as the court in its discretion may impose, provided that the lot may not be sold or released into the regular channels of trade.

(D) In the event of the sale of any lot by order of the court, the costs of storage, handling, and reconditioning or disposal shall be deducted from the proceeds of the sale and the balance, if any, shall be paid into the court for the account of the owner of any such lot.

(e) Disposal of any lot or portion of any lot pursuant to this Code section, whether such disposal is by arrangement with an enforcing officer or by court order, shall not waive any of the penalty provisions of this article.

(f) This Code section shall apply to any lot of peanuts regulated by a marketing order wherever or in the possession of whomever such lot may be in the marketing channels within this state.

History

Code 1981, § 2-8-71, enacted by Ga. L. 1989, p. 1420, § 1.

End of Document

O.C.G.A. § 2-8-72

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 3 Agricultural Commodity Commission for Peanuts (§§ 2-8-50 — 2-8-79)

2-8-72. Civil penalty; fixing amount of penalty; civil action; disposition of moneys.

Any person who violates any provision of this article or any marketing order duly issued by the commission and in effect under this article or who violates any rule or regulation issued by the commission pursuant to this article or of any marketing order duly issued and effective under this article shall be civilly liable to the commission for a penalty in an amount not to exceed \$500.00 for each and every violation thereof, the amount of such penalty to be fixed by the commission after notice and hearing as provided by Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” for contested cases and recoverable by a civil action brought in the name of the commission or by execution issued in like manner as for assessments provided by Code Section 2-8-67. Any moneys recovered pursuant to this Code section shall be deposited and disbursed in accordance with subsection (e) of Code Section 2-8-67 as are other moneys.

History

Code 1981, § 2-8-72, enacted by Ga. L. 1989, p. 1420, § 1.

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O.C.G.A. § 2-8-73

Current through the 2022 Regular Session of the General Assembly.

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2-8-73. Action by Attorney General for civil penalties or injunctive relief; remedies court may impose; payment of costs.

(a) The Attorney General of this state shall, upon complaint by the commission, or may, upon his own initiative if after examination of the complaint and evidence he believes a violation has occurred, bring an action in the superior court in the name of the commission for civil penalties or for injunctive relief, including specific performance of any obligation imposed by a marketing order or any rule or regulation issued under this article, or both, against any person violating any provisions of this article or of any marketing order or any rule or regulation duly issued by the commission under this article.

(b) If it appears to the court, upon any application for a temporary restraining order, upon the hearing of any order to show cause why a preliminary injunction should not be issued, or upon the hearing of any motion for a preliminary injunction, or if the court finds in any such action that any defendant therein is violating or has violated any provision of this article or of any marketing order or any rule or regulation duly issued by the commission under this article, then the court shall enjoin the defendant from committing further violations and may compel specific performance of any obligation imposed by a marketing order or any rule or regulation issued by the commission under this article. It shall not be necessary in such event to allege or prove lack of an adequate remedy at law.

(c) In any action brought by the Attorney General to enforce any of the provisions of this article or of any marketing order issued by the commission and effective under this article or of any rule or regulation issued by the commission pursuant to any marketing order, the judgment, if in favor of the commission, may provide that the defendant pay to the commission the costs incurred by the commission in the prosecution of such action.

History

Code 1981, § 2-8-73, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-74. Referral of complaints to Attorney General or prosecuting attorney; hearing to consider charges; cease and desist order.

(a) The commission on its own motion may, and upon the complaint of any interested party charging a violation of any provision of this article or of any provision of any marketing order or any rule or regulation issued by the commission and effective under this article shall, either refer the matter directly to the Attorney General of this state or to any prosecuting attorney of this state for the institution of legal proceedings thereupon or, if the commission deems it necessary or advisable, immediately call an administrative hearing, pursuant to the provisions of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” governing contested cases, to consider the charges set forth in such verified complaint.

(b) In case the matter is referred directly by the commission to the Attorney General or any prosecuting attorney, it shall be the duty of such officer, if after examination of the complaint and the evidence he believes that a violation has occurred, to bring an appropriate action or actions in a court or courts of competent jurisdiction in this state.

(c) After an administrative hearing, if the commission finds that a violation has occurred, it shall enter its findings and notify the parties to such complaint. In its discretion, the commission shall either refer the matter to the Attorney General for the institution of legal proceedings or notify such parties to cease and desist from further violation. Upon the refusal or failure of such parties to comply or if the commission finds that the facts or circumstances warrant immediate prosecution, the commission shall file a complaint with the Attorney General or with any prosecuting attorney of this state requesting that such officer commence any or all actions authorized in this article against such respondent or respondents in a court of competent jurisdiction.

History

Code 1981, § 2-8-74, enacted by Ga. L. 1989, p. 1420, § 1.

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O.C.G.A. § 2-8-75

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2-8-75. False or fraudulent reports, statements, and records; failure or refusal to give name and address of person from whom peanuts received.

(a) Any person who willfully renders or furnishes a false or fraudulent report, statement, or record required pursuant to this article or any marketing order effective under this article shall be guilty of a misdemeanor.

(b) Any person engaged in the handling or processing of peanuts or in the wholesale or retail trade thereof who fails or refuses to furnish, upon request, information concerning the name and address of the person from whom he has received peanuts regulated by a marketing order issued and in effect under this article and the quantity of such peanuts received shall be guilty of a misdemeanor.

History

Code 1981, § 2-8-75, enacted by Ga. L. 1989, p. 1420, § 1; Ga. L. 1990, p. 8, § 2.

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2-8-76. Criminal penalty.

Any person who violates any provision of this article or any provision of any marketing order duly issued by the commission under this article shall be guilty of a misdemeanor.

History

Code 1981, § 2-8-76, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-77. Construction of penalty and remedy provisions.

The penalties and remedies prescribed in this article with respect to any violation mentioned shall be concurrent and alternative. Neither singly nor combined shall such penalties and remedies be exclusive; rather, either singly or combined, such penalties and remedies shall be cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided or allowed by law with respect to any such violation.

History

Code 1981, § 2-8-77, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-78. Applicability to retailers of peanuts.

This article shall not be applicable to any retailer of peanuts except to the extent that any retailer also engages in the processing or distribution of peanuts as defined in this article.

History

Code 1981, § 2-8-78, enacted by Ga. L. 1989, p. 1420, § 1.

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2-8-79. Applicability of “Georgia Administrative Procedure Act.”

The promulgation, adoption, and amendment of rules and regulations by the commission shall be subject to the requirements of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

History

Code 1981, § 2-8-79, enacted by Ga. L. 1989, p. 1420, § 1.

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O.C.G.A. Title 2, Ch. 8, Art. 4

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8
Agricultural Commodities Promotion (Arts. 1 — 6) > Article 4 Agricultural Commodity
Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)***

Article 4 Agricultural Commodity Commission for Georgia Grown Products

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O.C.G.A. § 2-8-90

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 4 Agricultural Commodity Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)

2-8-90. Definitions.

As used in this article, the term:

- (1) “Advertising and sales promotion” means, in addition to the ordinarily accepted meaning thereof, trade promotion and activities for the prevention, modification, or removal of trade barriers which restrict the normal flow of Georgia grown products to market and may include the presentation of facts to and negotiations with state, federal, or foreign governmental agencies on matters which affect the marketing of Georgia grown products.
- (2) “Commission” means the Agricultural Commodity Commission for Georgia Grown Products created under this article.
- (3) “Georgia grown products” means any agricultural, horticultural, floricultural, silvicultural, or vegetable products commercially produced in this state.
- (4) “Person” means an individual, firm, corporation, association, or any other business unit or any combination thereof and includes any state agency which engages in any of the commercial activities regulated pursuant to this article.
- (5) “Processor” means any person engaged within this state in the operation of receiving, grading, packing, canning, extracting, preserving, grinding, crushing, milling, or changing the form of a Georgia grown product for the purpose of preparing for market or marketing such product or engaged in any other activities performed for the purpose of preparing for market or marketing such product.
- (6) “Producer” means any person engaged within this state in the business of producing or causing to be produced for market Georgia grown products.

History

Code 1981, § 2-8-90, enacted by Ga. L. 2013, p. 74, § 1/HB 298; Ga. L. 2014, p. 866, § 2/SB 340.

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O.C.G.A. § 2-8-91

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 4 Agricultural Commodity
Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)***

2-8-91. Authority of Commissioner.

The Commissioner shall be authorized to exercise supervisory jurisdiction over the administration and enforcement of this article. In the performance of this duty, the Commissioner is authorized to utilize the personnel and facilities of the department.

History

Code 1981, § 2-8-91, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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O.C.G.A. § 2-8-92

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 4 Agricultural Commodity
Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)***

2-8-92. Creation.

There is created the Agricultural Commodity Commission for Georgia Grown Products.

History

Code 1981, § 2-8-92, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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O.C.G.A. § 2-8-93

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2-8-93. Composition; membership.

(a) The commission shall be composed of:

(1) The Commissioner of Agriculture, ex officio;

(2) The president of the Georgia Farm Bureau, ex officio;

(3) One member elected by the Senate Agriculture and Consumer Affairs Committee with a quorum present and a majority of those present concurring, who shall be a producer or processor and shall not be a member of the General Assembly;

(4) One member elected by the House Committee on Agriculture and Consumer Affairs who shall be a producer or processor and shall not be a member of the General Assembly; and

(5) Five additional members, all of whom shall be appointed by the members of the commission specified in paragraphs (1) through (4) of this subsection.

(b) The initial two members elected by the agriculture and consumer affairs committees of the General Assembly shall be elected and qualified to take office for a term ending upon the election of their successors during the regular 2016 session of the General Assembly. Their successors shall be elected during the 2016 regular session of the General Assembly; and thereafter future successors shall be elected during each regular session of the General Assembly convening in even-numbered years. Such members shall serve from the date of their election until their successors are elected and qualified. Such members shall be entitled to vote on matters pertaining to the organization of the commission and upon the selection and nomination of the appointed members of the commission, but shall not be entitled to vote upon any matter pertaining to the policy provisions of the commission, nor shall they be entitled to vote upon the expenditure of any funds of the commission.

(c) For purposes of the appointment of additional members of the commission as provided in this Code section, a list of nominees shall be requested from producers and processors. Initial appointments shall be made for three members for a term of three years each from the effective date of their appointment and until their successors are appointed and qualified and two members for a term of two years each from the effective date of their appointment and until their successors are appointed and qualified. Thereafter, successors shall be appointed for a term of three years each from the effective date of their appointment and until their successors are appointed and qualified. Vacancies shall be filled by appointment in like manner, for the unexpired term, except that vacancies in the office of a member elected by a legislative committee shall be filled for the unexpired term by the legislative committee which made the previous appointment. Any appointed member shall be eligible for reappointment.

(d)

(1) The members who are state officers shall be compensated as provided by law. Each such member shall be reimbursed by his or her respective department or from the funds of the commission for actual and necessary expenses incurred in the performance of his or her duties.

O.C.G.A. § 2-8-93

- (2)** The two members elected by the agriculture and consumer affairs committees of the General Assembly, as provided by subsection (a) of this Code section, shall be entitled to receive, for attending meetings of the commission, the same expenses and travel allowances which members of the General Assembly receive for attending meetings of legislative interim committees. Such expenses and allowances shall be paid from funds appropriated or otherwise available to the legislative branch of state government.
- (3)** The appointed members of the commission shall receive compensation and reimbursement of expenses as shall be provided by the commission, and such funds shall be payable from the funds of the commission.
- (e)** Each member of the commission shall be a public officer and shall take an oath of office faithfully to perform his or her duties. The fact of a member's appointment shall be certified to the Secretary of State, who shall issue the appropriate commission under the seal of his or her office.

History

Code 1981, § 2-8-93, enacted by Ga. L. 2013, p. 74, § 1/HB 298; Ga. L. 2014, p. 866, § 2/SB 340.

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 4 Agricultural Commodity
Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)***

2-8-94. Public corporation and instrumentality of the State of Georgia.

The commission, with its name annexed thereto, shall be a public corporation and an instrumentality of the State of Georgia. By that name, style, and title, the commission may contract and be contracted with, implead and be impleaded, and complain and defend in all courts.

History

Code 1981, § 2-8-94, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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O.C.G.A. § 2-8-95

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2-8-95. Powers, duties, and authority of commission.

- (a)** The commission is authorized to accept donations, gifts, grants, and other funds or property and to use the same for commission purposes. The commission may exercise the powers and authority conferred by law upon corporations.
- (b)** Funds received by the Commissioner under this article shall be held in trust for the commission. Such funds shall be deposited, accounted for, and disbursed in the same manner as the funds of this state but shall not be required to be deposited in the state treasury and appropriated therefrom as are other state funds. It is the express intent and purpose of this article to authorize the receipt, collection, and disbursement by the Commissioner of such funds as trust funds of the commission without complying with the requirement applicable to funds collected for the use and benefit of the state.
- (c)** The Commissioner is authorized and it shall be his or her duty to receive, collect, and disburse the funds of the commission qualifying and operating under this article. The Commissioner shall disburse funds of the commission only upon the written authorization of the commission.
- (d)** Any person who handles funds under this article shall be bonded with good and sufficient surety in an amount determined by the Commissioner for the accounting of any and all funds coming into his or her hands.

History

Code 1981, § 2-8-95, enacted by Ga. L. 2013, p. 74, § 1/ HB 298.

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Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)***

2-8-96. Immunity from liability.

The members and employees of the commission and the Commissioner shall be immune from liability to the same extent as the state and state officers and employees under Article 2 of Chapter 21 of Title 50, “The Georgia Tort Claims Act.”

History

Code 1981, § 2-8-96, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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2-8-97. Authority of Commissioner to issue, administer, and enforce provisions of marketing orders; hearings.

(a) The Commissioner, upon the approval and request of the commission, is authorized to issue, administer, and enforce the provisions of marketing orders.

(b)

(1) Whenever the Commissioner has reason to believe that the issuance of a marketing order or amendments to an existing marketing order will tend to effectuate the declared policy of this article with respect to any Georgia grown product, he or she shall, either upon his or her own motion, upon the motion of the commission, upon the application of any producer, or any organization of such persons, give due notice of and an opportunity for a public hearing upon a proposed marketing order or amendments to an existing marketing order.

(2) Notice of any hearing called for such purpose shall be given by the Commissioner or the commission by publishing a notice of such hearing for a period of not less than five days in a newspaper of general circulation published in the capital of this state and in such other newspapers as the Commissioner may prescribe. No such public hearing shall be held prior to five days after the last day of such period of publication. Such notice of hearing shall in all respects comply with the requirements of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(3) The hearing shall be public and all testimony shall be received under oath. A full and complete record of the proceedings at such hearing shall be made and maintained. The hearing shall, in all respects, be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The hearing may be conducted by the commission, by a member of the commission, or by the Commissioner, as may be designated by the commission in each instance, but no decision shall be made based on hearings conducted other than by the commission itself, at which a majority of the members thereof are present, until the members of the commission have been afforded an opportunity to review the hearing record. Where the commission conducts hearings, its recommendation shall be based on the findings reached after a review of the record of the hearing.

History

Code 1981, § 2-8-97, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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O.C.G.A. § 2-8-98

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 4 Agricultural Commodity Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)

2-8-98. Recommendation of promulgation of a marketing order.

If, upon the basis of the record of testimony and evidence received at the hearing provided for in Code Section 2-8-97, the commission determines that the issuance of a marketing order or amendment will tend to effectuate the intent and purpose of this article, it may recommend the promulgation of a marketing order containing any one or more of the following provisions, but no others:

- (1)** Provisions for the establishment of plans for advertising and sales promotion to maintain present markets or to create new or larger markets for Georgia grown products in this state or for the prevention, modification, or removal of trade barriers which obstruct the normal flow of Georgia grown products to market. The commission is authorized to prepare, issue, administer, and enforce plans for promoting the sale of Georgia grown products, provided that any such plan shall be directed toward promoting and increasing the sale, use, and utilization of Georgia grown products only, without reference to any other brand or trade name; and provided, further, that no advertising or sales promotion program shall be issued by the commission which makes use of false or unwarranted claims on behalf of or disparages the quality, value, sale, or use of any other commodity;
- (2)** Provisions for carrying on research studies in promoting the production, marketing, sale, use and utilization, and improvement of Georgia grown products or any combination thereof and for the expenditure of moneys for such purposes; and
- (3)** Provisions establishing or providing authority for establishing an educational program designed to acquaint producers or the general public about Georgia grown products.

History

Code 1981, § 2-8-98, enacted by Ga. L. 2013, p. 74, § 1/HB 298; Ga. L. 2014, p. 866, § 2/SB 340.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 4 Agricultural Commodity Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)

2-8-99. Amendments to marketing orders; notice; rules and regulations; termination of orders.

(a)

(1) Upon the recommendation of not fewer than three of the appointed members of the commission, the Commissioner or the commission may make effective minor amendments to a marketing order. The Commissioner or the commission may require a public hearing upon minor amendments if in the Commissioner's or the commission's opinion the substance of such minor amendments so warrants.

(2) In making effective major amendments to a marketing order, the Commissioner or the commission shall follow the same procedures prescribed in this article for the institution of a marketing order. For the purpose of this article, a major amendment to a marketing order shall include, but shall not be limited to, any amendment which adds to or deletes from any such marketing order any of the following types of regulations or authorizations:

(A) Authority for the establishment of plans for advertising and sales promotion of Georgia grown products;

(B) Authority to increase an assessment rate beyond the maximum rate authorized by the marketing order in effect;

(C) Extension of the termination date of any marketing order; or

(D) Authority for carrying out research studies in the production or distribution of Georgia grown products.

(3) Modification of any provisions of any marketing order in effect, for the purpose of clarifying the meaning or application of such provisions or of modifying administrative procedures for carrying out such provisions, are declared not to be a major amendment of such marketing order.

(b) Upon the issuance of any order making effective a marketing order or any suspension, amendment, or termination thereof, a notice thereof shall be posted on a public bulletin board maintained at the Department of Agriculture; and a copy of such notice shall be published as the Commissioner or the commission may prescribe. No marketing order nor any suspension, amendment, or termination thereof shall become effective until the termination of a period of five days from the date of such posting and publication.

(c) The Commissioner or the commission shall have the power, consistent with this article and in accordance with marketing orders and amendments made effective under this article, to establish such general rules and regulations for uniform application to all marketing orders issued pursuant to this article as may be necessary to facilitate the administration and enforcement of such marketing orders. The provisions of subsection (b) of this Code section relative to posting, publication, and time of taking effect shall be applicable to any such general rule or regulation established pursuant to this subsection and applicable to marketing orders generally. Such notice shall be furnished by the Commissioner or the commission for each marketing order in active operation.

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(d) Upon the recommendation of the commission, the Commissioner shall have the power, consistent with this article, to establish administrative rules and regulations for each marketing order issued and made effective as may be necessary to facilitate the supervision, administration, and enforcement of each such order. The provisions of subsection (b) of this Code section relative to posting, publication, mailing of notice, and time of taking effect shall be applicable to any such administrative rules and regulations.

(e) Unless extended as provided in this article, all marketing orders issued under the authority of this article shall terminate at the expiration of one year from the date of the issuance of the original marketing order or, if such marketing order has been extended, at the expiration of one year after the date of any such extension.

History

Code 1981, § 2-8-99, enacted by Ga. L. 2013, p. 74, § 1/HB 298; Ga. L. 2014, p. 866, § 2/SB 340.

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2-8-100. Levying and collection of assessments.

(a) For the purpose of providing funds to defray the necessary expenses incurred by the commission in the formulation, issuance, administration, and enforcement of any marketing order which authorizes the carrying out of advertising and sales promotion plans, such order shall provide for the levying of assessments upon producers or processors utilizing the Georgia grown trademark. Such orders shall be in sufficient amounts to defray the expenses of such activities. Each such order shall indicate the maximum rate of any such assessment. The commission shall adopt budgets to cover such expenses and establish the assessment rate necessary to provide sufficient funds. If the commission finds that each such budget and assessment rate is proper and equitable and will provide sufficient moneys to defray such expenses, they may approve such budget and approve and levy such assessment.

(b) The commission may prescribe such rules as may be necessary and reasonable for the orderly collection of assessments and may take all legal action necessary to enforce payment of such assessments.

History

Code 1981, § 2-8-100, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 4 Agricultural Commodity
Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)***

2-8-101. Limitations on application of marketing orders.

Marketing orders issued by the commission may be limited in their application by prescribing the marketing areas or portions of this state in which a particular order shall be effective, provided that no marketing order shall be issued by the commission unless it embraces all persons of a like class.

History

Code 1981, § 2-8-101, enacted by Ga. L. 2013, p. 74, § 1/ HB 298.

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O.C.G.A. § 2-8-102

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2-8-102. Deposit and disbursement of funds; investment.

(a) Any moneys collected by the commission or the Commissioner pursuant to this article shall be deposited in a bank or other depository approved by the commission and shall be disbursed by the Commissioner only for the necessary expenses incurred by the commission and the Commissioner, as approved by the commission. Funds so collected shall be deposited and disbursed in conformity with appropriate rules and regulations prescribed by the Commissioner. All such expenditures by the Commissioner shall be audited at least annually by the state auditor and a copy of such audit shall be delivered within 30 days after the completion thereof to the Governor, the Commissioner, and the commission. If ever the commission is abolished by law, any funds remaining in its hands at such time shall be used to pay the existing obligations of the commission and the expenses incurred in winding up the affairs of the commission. Any excess remaining shall escheat to the state and shall be paid by the Commissioner into the state treasury as unclaimed trust funds.

(b) Moneys deposited by the Commissioner pursuant to this Code section which the commission determines are available for investment may be invested or reinvested by the Commissioner as provided for funds of this state or of any retirement system created by law, provided that all moneys invested shall be invested in those areas of production that will provide a return at the highest bank interest rate available. It shall be the duty of the commission to annually review these investments and determine that such investments comply with this Code section.

History

Code 1981, § 2-8-102, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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2-8-103. Duties of Attorney General.

(a) The Attorney General of this state shall represent the commission in legal matters and shall be the attorney for the commission.

(b) The Attorney General shall, upon complaint by the commission, bring an action in the superior court in the name of the commission for civil penalties or for injunctive relief, including specific performance of any obligation imposed by a marketing order or any rule or regulation issued under this article, or both, against any person violating any provisions of this article or of any marketing order or any rule or regulation duly issued by the commission under this article. It shall not be necessary in such event to allege or prove lack of an adequate remedy at law.

History

Code 1981, § 2-8-103, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 4 Agricultural Commodity
Commission for Georgia Grown Products (§§ 2-8-90 — 2-8-105)***

2-8-104. Violations.

Any person who violates any provision of this article or any provision of any marketing order duly issued by the commission under this article shall be guilty of a misdemeanor.

History

Code 1981, § 2-8-104, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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2-8-105. Rules and regulations.

The commission is empowered to make all necessary rules and regulations for the purpose of carrying out the purposes of this article. The promulgation, adoption, and amendment of rules and regulations by the commission shall be subject to the requirements of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

History

Code 1981, § 2-8-105, enacted by Ga. L. 2013, p. 74, § 1/HB 298.

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O.C.G.A. Title 2, Ch. 8, Art. 5

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 5 Agricultural Commodity Commission for Equines (§§ 2-8-120 — 2-8-135)

Article 5 Agricultural Commodity Commission for Equines

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O.C.G.A. § 2-8-120

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 5 Agricultural Commodity Commission for Equines (§§ 2-8-120 — 2-8-135)

2-8-120. Applicability.

This article shall apply only to the Agricultural Commodity Commission for Equines.

History

Code 1981, § 2-8-120, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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O.C.G.A. § 2-8-121

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2-8-121. Definitions.

As used in this article, the term:

- (1) “Advertising and sales promotion” means, in addition to the ordinarily accepted meaning thereof, trade promotion and activities for the prevention, modification, or removal of trade barriers which restrict the normal flow of equines to market and may include the presentation of facts to and negotiations with state, federal, or foreign governmental agencies on matters which affect the marketing of any equines.
- (2) “Commission” means the Agricultural Commodity Commission for Equines created under this article.
- (3) “Equine” means any member of the Equidae family, including horses, mules, hinnies, and asses.
- (4) “Person” means an individual, firm, corporation, association, or any other business unit or any combination thereof and includes any state agency which engages in any of the commercial activities regulated pursuant to this article.
- (5) “Producer” means any person who owns one or more equines or is engaged within this state in the business of buying, selling, boarding, holding, training, breeding, riding, pulling vehicles with, or otherwise utilizing equines for similar purposes.

History

Code 1981, § 2-8-121, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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2-8-122. Commissioner's authority.

The Commissioner shall be authorized to exercise supervisory jurisdiction over the administration and enforcement of this article. In the performance of this duty, the Commissioner is authorized to utilize the personnel and facilities of the department.

History

Code 1981, § 2-8-122, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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O.C.G.A. § 2-8-123

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8
Agricultural Commodities Promotion (Arts. 1 — 6) > Article 5 Agricultural Commodity
Commission for Equines (§§ 2-8-120 — 2-8-135)***

2-8-123. Commission created.

There is created the Agricultural Commodity Commission for Equines.

History

Code 1981, § 2-8-123, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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O.C.G.A. § 2-8-124

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2-8-124. Commission membership; nomination and election of commission members.

(a) The commission shall be composed of:

- (1) The Commissioner of Agriculture, ex officio;
- (2) The president of the Georgia Farm Bureau, ex officio;
- (3) One member elected by the Senate Agriculture and Consumer Affairs Committee with a quorum present and a majority of those present concurring, who shall be a producer and shall not be a member of the General Assembly;
- (4) One member elected by the House of Representatives Committee on Agriculture and Consumer Affairs with a quorum present and a majority of those present concurring, who shall be a producer and shall not be a member of the General Assembly; and
- (5) Five additional members, all of whom shall be appointed by the members of the commission specified in paragraphs (1) through (4) of this subsection. At least four of such appointees shall be producers.

(b) The initial two members elected by the agriculture and consumer affairs committees of the General Assembly shall be elected and qualified to take office for a term beginning on January 1, 2007, and ending upon the election of their successors during the regular 2009 session of the General Assembly. Their successors shall be elected during the 2009 regular session of the General Assembly; and thereafter future successors shall be elected during each regular session of the General Assembly convening in odd-numbered years. Such members shall be selected so that one member is from the northern part of Georgia and one member is from the southern part. For purposes of this selection the northern part of Georgia shall be that area north of and including Richmond, McDuffie, Warren, Hancock, Baldwin, Jones, Bibb, Crawford, Upson, Talbot, and Muscogee counties; and the southern part shall be that area south of such counties. The chairpersons of the Senate and House committees shall by agreement determine which committee will choose the member from the northern part and which committee will choose the member from the southern part. Such members shall serve from the date of their election until their successors are elected and qualified.

(c) For purposes of the appointment of additional members of the commission as provided in this Code section, a list of nominees shall be requested from producers of equines. Initial appointments shall be made for three members for a term of three years each from the effective date of their appointment and until their successors are appointed and qualified and two members for a term of two years each from the effective date of their appointment and until their successors are appointed and qualified. Thereafter, successors shall be appointed for a term of three years each from the effective date of their appointment and until their successors are appointed and qualified. Vacancies shall be filled by appointment in like manner, for the unexpired term, except that vacancies in the office of a member elected by a legislative committee shall be filled for the unexpired term by the legislative committee which made the previous appointment. Any appointed member shall be eligible for reappointment.

(d)

(1) The members who are state officers shall be compensated as provided by law. Each such member shall be reimbursed by his or her respective department or from the funds of the commission for actual and necessary expenses incurred in the performance of his or her duties. Each such member who is a state officer may designate a representative of his or her department to act for the officer in performing any duties under this article.

(2) The two members elected by the agriculture and consumer affairs committees of the General Assembly, as provided by subsection (a) of this Code section, shall be entitled to receive, for attending meetings of the commission, the same expenses and travel allowances which members of the General Assembly receive for attending meetings of legislative interim committees. Such expenses and allowances shall be paid from funds appropriated or otherwise available to the legislative branch of state government.

(3) The appointed members of the commission shall receive compensation and reimbursement of expenses as shall be provided by the commission, and such funds shall be payable from the funds of the commission.

(e) It shall be the duty of the Commissioner to certify to the Secretary of State the membership of the commission and each change in membership as the same occurs.

(f) The commission is authorized to appoint advisory boards, special committees, and individuals, including technical and clerical personnel, to advise, aid, and assist the commission in the performance of its duties. Compensation for such services shall be fixed by the commission and may be paid from the funds of the commission. The Attorney General shall represent the commission in legal matters and shall be the attorney for the commission. If the Attorney General determines that outside legal counsel is necessary or desirable in connection with any legal matter of the commission, he or she shall so inform the commission and, upon approval of the commission, shall employ such outside counsel. Compensation for such outside counsel shall be agreed upon between such counsel and the Attorney General, subject to the approval of the commission. Such compensation shall be paid from the funds of the commission. Neither Code Section 16-10-9 nor any other law shall prohibit or be applicable to the employment of such counsel.

(g) Any other provision of this article to the contrary notwithstanding, a member of any federation or organization of producers shall be eligible to be appointed as a member of the commission with respect to any equine produced by such federation or organization or handled by it for its members who produce it.

(h) The commission is authorized to accept donations, gifts, grants, revenue derived from the sale of special license plates as may be otherwise provided by law, and other funds or property and to use the same for commission purposes. The commission may exercise the powers and authority conferred by law upon corporations.

(i) The two members elected by the agriculture and consumer affairs committees of the General Assembly, as provided by subsection (a) of this Code section, as members of the commission shall be entitled to vote on matters pertaining to the organization of the commission and upon the selection and nomination of the appointed members of the commission. Such two members shall not be entitled to vote upon any matter pertaining to the policy provisions of the commission nor shall they be entitled to vote upon the expenditure of any funds of the commission.

(j) The commission shall continue as a public corporation and instrumentality of the State of Georgia until abolished by law.

History

Code 1981, § 2-8-124, enacted by Ga. L. 2006, p. 632, § 2/SB 380; Ga. L. 2017, p. 774, § 2/HB 323.

O.C.G.A. § 2-8-124

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2-8-125. Commission to be a public corporation and instrumentality of the state; powers; transaction of commission business.

The commission, with its name annexed thereto, shall be a public corporation and an instrumentality of the State of Georgia. By that name, style, and title, the commission may contract and be contracted with, implead and be impleaded, and complain and defend in all courts. The commission shall name its chairperson and determine a quorum for the transaction of business. The commission shall assume the duties and exercise the authority provided in this article without further formality than that provided in this article. Each member of the commission shall be a public officer and shall take an oath of office faithfully to perform his or her duties. Such oath shall be administered by the Commissioner or some other person qualified to administer oaths. The fact of a member's appointment shall be certified to the Secretary of State, who shall issue the appropriate commission under the seal of his or her office.

History

Code 1981, § 2-8-125, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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2-8-126. Receipt, collection, and disbursement of funds.

The Commissioner is authorized and it shall be his or her duty to receive, collect, and disburse the funds of the commission qualifying and operating under this article. The Commissioner shall disburse funds of the commission only upon the written authorization of the commission.

History

Code 1981, § 2-8-126, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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2-8-127. Funds received under this article to be held in trust for the commission.

Funds received by the Commissioner under this article shall be held in trust for the commission. Such funds shall be deposited, accounted for, and disbursed in the same manner as the funds of this state but shall not be required to be deposited in the state treasury and appropriated therefrom as are other state funds. It is the express intent and purpose of this article to authorize the receipt, collection, and disbursement by the Commissioner of such funds as trust funds of the commission without complying with the requirement applicable to funds collected for the use and benefit of the state.

History

Code 1981, § 2-8-127, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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2-8-128. Persons handling funds to be bonded.

Any person who handles funds under this article shall be bonded with good and sufficient surety in an amount determined by the Commissioner for the accounting of any and all funds coming into his or her hands.

History

Code 1981, § 2-8-128, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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2-8-129. Committee members and employees not responsible individually for errors in judgment, mistakes or other acts.

The members and employees of the commission and the Commissioner shall not be held responsible individually in any way whatsoever to any producer, distributor, or other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the commission. The liability of the members of the commission shall be several and not joint and no member shall be liable for the default of any other member.

History

Code 1981, § 2-8-129, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > **TITLE 2 Agriculture (Chs. 1 — 23)** > **CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6)** > **Article 5 Agricultural Commodity Commission for Equines (§§ 2-8-120 — 2-8-135)**

2-8-130. Commission authorized to share information with state and federal government agencies.

The Commissioner and the commission are authorized to confer with and to make any information obtained pursuant to this article available to the duly constituted governmental authorities of this state, of other states, of political subdivisions of this state or other states, and of the United States who, by reason of their duties, have legitimate concern with the subject and to cooperate with all such authorities for the purpose of obtaining administrative uniformity and achieving the objectives of this article.

History

Code 1981, § 2-8-130, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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O.C.G.A. § 2-8-131

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 5 Agricultural Commodity Commission for Equines (§§ 2-8-120 — 2-8-135)

2-8-131. Issuance, administration, and enforcement of marketing orders; hearing.

(a) The Commissioner, upon the approval and request of the commission, is authorized to issue, administer, and enforce the provisions of marketing orders.

(b)

(1) Whenever the Commissioner has reason to believe that the issuance of a marketing order or amendments to an existing marketing order will tend to effectuate the declared policy of this article with respect to any equines, he or she shall, either upon his or her own motion, upon the motion of the commission, or upon the application of any producer, or any organization of such persons, give due notice of and an opportunity for a public hearing upon a proposed marketing order or amendments to an existing marketing order.

(2) Notice of any hearing called for such purpose shall be given by the Commissioner or the commission by publishing a notice of such hearing for a period of not less than five days in a newspaper of general circulation published in the capital of the state and in such other newspapers as the Commissioner may prescribe. No such public hearing shall be held prior to five days after the last day of such period of publication. Such notice of hearing shall in all respects comply with the requirements of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(3) The hearing shall be public and all testimony shall be received under oath. A full and complete record of the proceedings at such hearing shall be made and maintained on file in the office of the Commissioner or the commission. The hearing shall, in all respects, be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The hearing may be conducted by the commission, by a member of the commission, or by the Commissioner, as may be designated by the commission in each instance, but no decision shall be made based on hearings conducted other than by the commission itself, at which a majority of the members thereof are present, until the members of the commission have been afforded an opportunity to review the hearing record. Where the commission conducts hearings, its recommendation shall be based on the findings reached after a review of the record of the hearing.

History

Code 1981, § 2-8-131, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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O.C.G.A. § 2-8-132

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 5 Agricultural Commodity Commission for Equines (§§ 2-8-120 — 2-8-135)

2-8-132. Provisions for establishment of advertising, research, and education programs.

If, upon the basis of the record of testimony and documentary evidence received at the hearing provided for in Code Section 2-8-131 and the facts officially noticed therein, the commission determines that the issuance of a marketing order or an amendment will tend to effectuate the intent and purpose of this article, it may recommend the promulgation of a marketing order containing any one or more of the following provisions, but no others:

- (1)** Provisions for the establishment of plans for advertising and sales promotion to maintain present markets or to create new or larger markets for equine grown in this state or for the prevention, modification, or removal of trade barriers which obstruct the normal flow of equines to market. The commission is authorized to prepare, issue, administer, and enforce plans for promoting the sale of equines, provided that any such plan shall be directed toward promoting and increasing the sale, use, and utilization of equines without reference to a particular producer or breed; and provided, further, that no advertising or sales promotion program shall be issued by the Commissioner or the commission which makes use of false or unwarranted claims on behalf of any equines or disparages the quality, value, sale, or use of any other agricultural commodity;
- (2)** Provisions for carrying on research studies in promoting the production, marketing, sale, use and utilization, and improvement of equines or any combination thereof and for the expenditure of moneys for such purposes. In any research carried on under this paragraph, the Commissioner and the commission shall cooperate in selecting the research project or projects to be carried on from time to time. Such projects shall be carried out by postsecondary educational institutions or private organizations selected by the commission;
- (3)** Provisions establishing or providing authority for establishing an educational program designed to acquaint producers or the general public about the equine industry and its associated issues.

History

Code 1981, § 2-8-132, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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2-8-133. Amendments to, rules and regulations governing, and expiration and termination of marketing orders.

(a)

(1) Upon the recommendation of not less than three of the appointed members of the commission, the Commissioner or the commission may make effective minor amendments to a marketing order. The Commissioner or the commission may require a public hearing upon minor amendments if in the Commissioner's or the commission's opinion the substance of such minor amendments so warrants.

(2) In making effective major amendments to a marketing order, the Commissioner or the commission shall follow the same procedures prescribed in this article for the institution of a marketing order. For the purpose of this article, a major amendment to a marketing order shall include, but shall not be limited to, any amendment which adds to or deletes from any such marketing order any of the following types of regulations or authorizations:

(A) Authority for the establishment of plans for advertising and sales promotion of equines; or

(B) Authority for carrying out research studies in the production or distribution of equines.

(3) Modification of any provisions of any marketing order in effect, for the purpose of clarifying the meaning or application of such provisions or of modifying administrative procedures for carrying out such provisions, are declared not to be a major amendment of such marketing order.

(b) Upon the issuance of any order making effective a marketing order or any suspension, amendment, or termination thereof, a notice thereof shall be posted on a public bulletin board maintained at the Department of Agriculture; and a copy of such notice shall be published as the Commissioner or the commission may prescribe. No marketing order nor any suspension, amendment, or termination thereof shall become effective until the termination of a period of five days from the date of such posting and publication.

(c) The Commissioner or the commission shall have the power, consistent with this article and in accordance with marketing orders and agreements made effective under this article, to establish such general rules and regulations for uniform application to all marketing orders issued pursuant to this article as may be necessary to facilitate the administration and enforcement of such marketing orders. The provisions of subsection (b) of this Code section relative to posting, publication, and time of taking effect shall be applicable to any such general rule or regulation established pursuant to this subsection and applicable to marketing orders generally. Such notice shall be furnished by the Commissioner or the commission for each marketing order in active operation.

(d) Upon the recommendation of the commission, the Commissioner shall have the power, consistent with this article, to establish administrative rules and regulations for each marketing order issued and made effective as may be necessary to facilitate the supervision, administration, and enforcement of each such order. The provisions of subsection (b) of this Code section relative to posting, publication, mailing of notice, and time of taking effect shall be applicable to any such administrative rules and regulations.

O.C.G.A. § 2-8-133

(e) Unless extended as provided in this Code section, all marketing orders issued under the authority of this article shall expire, terminate, and become of no force and effect at the expiration of three years from the date of the issuance of the original marketing order or, if such marketing order has been extended, at the expiration of three years after the date of any such extension.

History

Code 1981, § 2-8-133, enacted by Ga. L. 2006, p. 632, § 2/SB 380; Ga. L. 2017, p. 774, § 2/HB 323.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 5 Agricultural Commodity Commission for Equines (§§ 2-8-120 — 2-8-135)

2-8-134. Limited application of marketing orders.

Marketing orders issued by the commission may be limited in their application by prescribing the marketing areas or portions of the state in which a particular order shall be effective, provided that no marketing order shall be issued by the commission unless it embraces all persons of a like class.

History

Code 1981, § 2-8-134, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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2-8-135. Commission authorized to borrow funds for certain purposes; disposition of funds collected pursuant to this article.

- (a) In the event that the commission has reason to believe that the administration of a marketing order will be facilitated or the attainment of the purposes and objectives of the marketing order will be promoted thereby, the commission is authorized to borrow money, with or without interest, to carry out any provision of any marketing order authorized by this article and may hypothecate anticipated funds due to the commission as otherwise provided by law and applicable to such respective provisions.
- (b) In lieu of requiring advance deposits for defraying administrative or advertising and sales promotion expenses until such time as sufficient moneys are collected for such purposes from any funds due to the commission as otherwise provided by law, the Commissioner is authorized to receive and disburse for such purposes contributions made by producers or distributors. Neither the commission nor the Commissioner shall be held responsible for the repayment of such contributions, provided that whenever collections from the payment of any funds due to the commission and credited to the respective marketing order accounts are sufficient so to warrant, the commission shall recommend and the Commissioner shall repay contributions.
- (c) Any moneys collected by the commission or the Commissioner pursuant to this article shall be deposited in a bank or other depository approved by the commission and shall be disbursed by the Commissioner only for the necessary expenses incurred by the commission and the Commissioner, as approved by the commission. Funds so collected shall be deposited and disbursed in conformity with appropriate rules and regulations prescribed by the Commissioner. All such expenditures by the Commissioner shall be audited at least annually by the state auditor and a copy of such audit shall be delivered within 30 days after the completion thereof to the Governor, the Commissioner, and the commission. If ever the commission is abolished by law, any funds remaining in its hands at such time shall be used to pay the existing obligations of the commission and the expenses incurred in winding up the affairs of the commission. Any excess remaining shall escheat to the state and shall be paid by the Commissioner into the state treasury as unclaimed trust funds.
- (d) Moneys deposited by the Commissioner pursuant to this Code section which the commission determines are available for investment may be invested or reinvested by the Commissioner as provided for funds of this state or of any retirement system created by law, provided that all moneys invested shall be invested in those areas of production that will provide a return at the highest bank interest rate available. It shall be the duty of the commission annually to review these investments and determine that such investments comply with this Code section.

History

Code 1981, § 2-8-135, enacted by Ga. L. 2006, p. 632, § 2/SB 380.

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O.C.G.A. Title 2, Ch. 8, Art. 6

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8
Agricultural Commodities Promotion (Arts. 1 — 6) > Article 6 Agricultural Commodity
Commission for Propane (§§ 2-8-200 — 2-8-219)***

Article 6 Agricultural Commodity Commission for Propane

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O.C.G.A. § 2-8-200

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**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8
Agricultural Commodities Promotion (Arts. 1 — 6) > Article 6 Agricultural Commodity
Commission for Propane (§§ 2-8-200 — 2-8-219)**

2-8-200. Definitions.

As used in this article, the term:

- (1) “Commission” means the Agricultural Commodity Commission for Propane created under this article.
- (2) “Dealer” means any person to whom the office of the Commissioner of Insurance issues a liquid propane license. The term shall not include any person who offers for retail sale propane in containers of less than 50 pounds water capacity and whose business does not involve the filling or transportation of such containers.
- (3) “Distributor” means any person engaged in the business of selling propane to a dealer in the state.
- (4) “Marketing order” means an order issued pursuant to this article establishing an assessment for financing the programs established under this article.
- (5) “Person” means an individual, sole proprietorship, partnership, limited partnership, firm, corporation, limited liability company, association, or any other business entity, or any combination thereof.

History

Code 1981, § 2-8-200, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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O.C.G.A. § 2-8-201

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2-8-201. Creation.

The Agricultural Commodity Commission for Propane is hereby created. The commission shall be organized and constituted, have corporate existence, possess powers and duties, and be governed and controlled as provided in this article.

History

Code 1981, § 2-8-201, enacted by Ga. L. 2019, p. 91, § 1/ HB 512.

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O.C.G.A. § 2-8-202

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2-8-202. Membership; vacancies; compensation; certification of membership; naming of chairperson; quorum.

- (a) The commission shall be composed of:
- (1) Three members elected by the House Committee on Agriculture and Consumer Affairs with a quorum present and a majority of those present concurring, each of whom shall be a dealer or distributor and shall not be a member of the General Assembly;
 - (2) Three members elected by the Senate Agriculture and Consumer Affairs Committee with a quorum present and a majority of those present concurring, each of whom shall be a dealer or distributor and shall not be a member of the General Assembly; and
 - (3) One member elected by a majority of the members of the commission as specified in paragraphs (1) and (2) of this subsection, who shall be a dealer or distributor and shall not be a member of the General Assembly.
- (b) Vacancies in the membership of the commission shall be filled in the same manner as that of the original election of such members. Any person selected to fill a vacancy shall serve for the remainder of the unexpired term.
- (c) There shall be no compensation or reimbursement of expenses for members of the commission.
- (d) It shall be the duty of the commission to certify to the Secretary of State the membership of the commission and each change in membership as the same occurs.
- (e) The commission shall name its chairperson and determine a quorum for the transaction of business.

History

Code 1981, § 2-8-202, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-203. Use of outside resources; representation by Attorney General; acceptance of donations and gifts; property interests.

(a) The commission is authorized to appoint advisory boards, special committees, and individuals, including technical and clerical personnel, to advise, aid, and assist the commission in the performance of its duties. Compensation for such services shall be fixed by the commission and shall be paid from the funds of the commission.

(b) The Attorney General shall represent the commission in legal matters and shall be the attorney for the commission. If the Attorney General determines that outside legal counsel is necessary or desirable in connection with any legal matter of the commission, he or she shall so inform the commission and, upon approval of the commission, shall employ such outside counsel. Compensation for such outside counsel shall be agreed upon between such counsel and the Attorney General, subject to the approval of the commission. Such compensation shall be paid from the funds of the commission. Neither Code Section 16-10-9 nor any other law shall prohibit or be applicable to the employment of such counsel.

(c) The commission is authorized to accept donations, gifts, and other property and to use the same for commission purposes.

(d) The commission is authorized to acquire, lease as lessee, purchase, hold, own, and use any franchise or real or personal property, whether tangible or intangible, or any interest therein and, whenever the same is no longer required for purposes of the commission, to sell, lease as lessor, transfer, or dispose thereof or exchange the same for other property or rights which are useful for its purposes.

History

Code 1981, § 2-8-203, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-204. Status of commission; oath of office.

The commission shall be a public corporation and an instrumentality of the State of Georgia. By that name, style, and title, the commission may contract and be contracted with, implead and be impleaded, and complain and defend in all courts. The commission shall assume the duties and exercise the authority provided in this article without further formality than that provided in this article. Each member of the commission shall be a public officer and shall take an oath of office to faithfully perform his or her duties. Such oath shall be administered by the Governor or some other person qualified to administer oaths.

History

Code 1981, § 2-8-204, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 6 Agricultural Commodity
Commission for Propane (§§ 2-8-200 — 2-8-219)***

2-8-205. Funding obligations.

The commission is authorized, and it shall be its duty to receive, collect, and disburse the funds of the commission.

History

Code 1981, § 2-8-205, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-206. Funds held in trust; accounting.

Funds received by the commission under this article shall be held in trust for the commission. Such funds shall be deposited, accounted for, and disbursed in the same manner as that of the funds of this state but shall not be required to be deposited in the state treasury and appropriated therefrom. It is the express intent and purpose of this article to authorize the receipt, collection, and disbursement by the commission of such funds as trust funds of the commission without complying with the requirement applicable to funds collected for the use and benefit of the state.

History

Code 1981, § 2-8-206, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-207. Bonding requirements for those handling finances.

Any persons who handle funds under this article shall be bonded with good and sufficient surety in an amount determined by the commission for the accounting of such funds. All checks, drafts, and negotiable instruments which are drawn on or payable from the funds of the commission shall be signed by the chairperson of the commission.

History

Code 1981, § 2-8-207, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-208. No individual liability.

The members and employees of the commission shall not be held individually responsible to any dealer or distributor or to any other person for errors in judgment, mistakes, or other acts as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such member, person, or employee shall be held individually responsible for any act or omission of any other member of the commission. The liability of the members of the commission shall be several and not joint, and no member shall be liable for the default of any other member.

History

Code 1981, § 2-8-208, enacted by Ga. L. 2019, p. 91, § 1/ HB 512.

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 6 Agricultural Commodity
Commission for Propane (§§ 2-8-200 — 2-8-219)**

2-8-209. Marketing orders; public hearings.

(a) The commission is authorized to issue, administer, and enforce marketing orders.

(b)

(1) Whenever the commission has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of this article with respect to propane, it shall give due notice of and an opportunity for a public hearing either in person or wholly or partially by means of remote communication as determined by the commission thereon.

(2) Notice of any hearing called for such purpose shall be given by the commission by publishing a notice of such hearing for a period of not less than five days on the commission's website and in the Farmers and Consumers Market Bulletin or other similar publication that will effectively notify those affected by such marketing order or amendment. The commission shall also mail a copy or communicate electronically such notice of hearing and a copy of such proposed marketing order or proposed amendments to all dealers and distributors of propane whose names and addresses are on file with the commission.

(3) The hearing and all testimony shall be public. A full and complete record of the proceedings at such hearing shall be made and maintained on file in the office of the commission. The hearing shall, in all respects, be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The hearing may be conducted by the commission or by a member of the commission, as may be designated by the commission in each instance, but no decision shall be made based on hearings conducted other than by the commission itself, at which a majority of the members thereof are present, until the members of the commission have been afforded an opportunity to review the hearing record. When the commission conducts hearings, its recommendation shall be based on the findings reached after a review of the record of such hearings.

History

Code 1981, § 2-8-209, enacted by Ga. L. 2019, p. 91, § 1/HB 512; Ga. L. 2022, p. 405, § 1/SB 486.

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2-8-210. Recommendation for promulgation of marketing order; prohibition against lobbying; administrative expenses; costs.

If, upon the basis of the record of testimony and documentary evidence received at the hearing as provided for in Code Section 2-8-209 and the facts officially noticed therein from official publications or institutions of recognized standing, the commission determines that the issuance of a marketing order will tend to effectuate the intent and purpose of this article, it may recommend the promulgation of a marketing order with respect to the matters specified in the hearing notice and supported by the record; such order shall account for provisions to promote propane education, training, safety compliance, equipment replacement for low-income customers, marketing, advertising, promotion, and customer rebates to encourage energy-efficient appliance and equipment purchases by residential, commercial, industrial, motor fuel or agricultural consumers. No funds collected pursuant to this article shall be used in any manner for lobbying or for influencing state or federal legislation. No more than 10 percent of the funds collected and no less than the actual administrative expense pursuant to this article shall be used for administrative expenses relating to the expenditure of the funds. The commission may advance costs of conducting referenda pursuant to this article and reimburse those costs from the assessment funds.

History

Code 1981, § 2-8-210, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-211. Requirement for referendum; voters and voting rights; approval; record keeping; confidentiality.

(a)

(1) No marketing order issued pursuant to this article shall be made effective by the commission until a referendum thereon is held.

(2) The commission shall determine:

(A) The amount of the proposed assessment established by the marketing order;

(B) The time and place of the referendum;

(C) Procedures for conducting the referendum and the counting of votes;

(D) The proposed effective date for the imposition of the assessment established by the marketing order, which shall be no less than 90 days from the date the referendum ballot is required to be returned to the commission in order to be considered on the question presented; and

(E) Any other matters pertaining to the referendum.

(b) The amount of the proposed assessment established by the marketing order shall be stated on the referendum ballot. The amount may not exceed four-tenths of one cent for each gallon of propane sold in this state by distributors to dealers.

(c) All dealers may vote in the referendum. Each dealer shall have one vote. Any dispute over eligibility to vote or any other matter relating to the referendum shall be resolved by the commission. The commission shall make reasonable efforts to provide all dealers with notice of the referendum and an opportunity to vote.

(d) A proposed assessment shall become effective if more than 25 percent of the notified eligible dealers who are engaged within the area specified in such marketing order or amendment thereto vote and more than two-thirds of the eligible votes cast by the dealers are cast in favor of the assessment. If the assessment is approved by the referendum, then the commission shall notify the department of the amount and the effective date of the assessment. The department shall notify all dealers of the assessment.

(e)

(1) Each distributor, as the owner of propane at the time of odorization, or at the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold in this state and placed in commerce in this state.

(2) Each distributor shall collect the assessment from the dealer to whom the sale is made and shall remit to the commission the sum of the amount of the assessment multiplied by the number of gallons of propane sold to any dealer during the assessment period.

(f) A distributor shall keep records of the number of gallons of propane sold to dealers. All documents or records regarding purchases and sales shall be made available to the commission upon its written request

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for the purpose of determining the distributor's compliance with the provisions of this article. The commission shall keep the records confidential and shall not disclose the records except to its accountants, attorneys, or financial advisors without a court order directing it to do so.

History

Code 1981, § 2-8-211, enacted by Ga. L. 2019, p. 91, § 1/HB 512; Ga. L. 2022, p. 405, § 2/SB 486.

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Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8
Agricultural Commodities Promotion (Arts. 1 — 6) > Article 6 Agricultural Commodity
Commission for Propane (§§ 2-8-200 — 2-8-219)***

2-8-212. Opt out by dealers.

A dealer can opt out of this article only once per year between September 1 and September 30. Any dealer who opts out of this article in accordance with this Code section shall not be eligible to receive the benefit of any marketing order for a period of one year following the date of his or her request to opt out under this Code section and shall not be entitled to the payment of any interest by the commission on the amount refunded.

History

Code 1981, § 2-8-212, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 6 Agricultural Commodity Commission for Propane (§§ 2-8-200 — 2-8-219)

2-8-213. Referendum vote on continuation of commission.

A referendum shall be held once every five years to vote on the continuation of the commission. For the results to be valid, at least 50 percent of the eligible dealers in this state must vote, and if more than 50 percent of the dealers voting vote in favor of continuing the commission, then the commission will continue for another five years.

History

Code 1981, § 2-8-213, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 8 Agricultural Commodities Promotion (Arts. 1 — 6) > Article 6 Agricultural Commodity Commission for Propane (§§ 2-8-200 — 2-8-219)

2-8-214. Assessments as personal debt; cumulative nature of penalties.

(a) Any assessment established in accordance with this article shall constitute a personal debt of every person so assessed and shall be due and payable to the commission when payment is called for by the commission. If such person fails to pay any such assessment, the commission may file an action against such person in a court of competent jurisdiction for the collection thereof.

(b) In the event that any person duly assessed pursuant to this article fails to pay to the commission the amount so assessed, the commission shall be authorized to add to such unpaid assessment an amount not exceeding 10 percent of such unpaid assessment to defray the cost of enforcing the collection of the unpaid assessment.

(c) The provisions of this Code section shall be cumulative, and any other remedies may be pursued concurrently until satisfaction is obtained. Any penalty recovered shall become a part of the principal assessment levied and shall be for the use of the commission.

History

Code 1981, § 2-8-214, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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Agricultural Commodities Promotion (Arts. 1 — 6) > Article 6 Agricultural Commodity
Commission for Propane (§§ 2-8-200 — 2-8-219)***

2-8-215. Civil penalty for violations.

Any person who violates any provision of this article or any marketing order duly issued and effective under this article shall be civilly liable to the commission for a penalty in an amount not to exceed \$500.00 for each and every violation thereof, the amount of such penalty to be fixed by the commission after notice and hearing as provided by Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” for contested cases and recoverable by a civil action brought in the name of the commission. Any moneys recovered pursuant to this Code section shall be applied for the use of the commission.

History

Code 1981, § 2-8-215, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-216. Actions brought by Attorney General; injunctions and specific performance; incurring and payment of costs.

(a) The Attorney General of this state shall, upon complaint by the commission, or may, after examining the complaint and the evidence and believing that a violation has occurred, bring an action in the superior court in the name of the commission for civil penalties or for injunctive relief, including the specific performance of any marketing order duly issued by the commission under this article.

(b) If there is an application for a preliminary injunction, a hearing of any order to show cause why such injunction should not be issued, or a hearing of any motion for a preliminary injunction suggesting that, or if the court finds in any such action that a defendant therein is violating or has violated any provision of this article or of any marketing order duly issued by the commission under this article, then the court shall enjoin the defendant from committing further violations and may compel specific performance of any obligation imposed by a marketing order issued by the commission under this article. It shall not be necessary in such event to allege or prove lack of an adequate remedy at law.

(c) In any action brought by the Attorney General to enforce any of the provisions of this article or of any marketing order issued by the commission and effective under this article or of any rule or regulation issued by the commission pursuant to any marketing order, a judgment in favor of the commission may provide that the defendant pay the commission the costs it incurred in the prosecution of such action.

History

Code 1981, § 2-8-216, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-217. Attorney General or prosecuting attorney to bring actions; administrative hearings; response to finding violation.

(a) The commission on its own motion or upon the complaint of any interested party may refer to the Attorney General of this state or to any prosecuting attorney of this state any charges of a violation of any provision of this article or of any marketing order or any rule or regulation issued by the commission and effective under this article for the institution of legal proceedings thereupon or, if the commission deems it necessary or advisable, immediately call an administrative hearing, pursuant to the provisions of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” governing contested cases, to consider the charges set forth in such verified complaint.

(b) In case the matter is referred directly by the commission to the Attorney General or any prosecuting attorney, it shall be the duty of such officer, if after examination of the complaint and the evidence he or she believes that a violation has occurred, to bring an appropriate action or actions in a court or courts of competent jurisdiction.

(c) After an administrative hearing, if the commission finds that a violation has occurred, it shall enter its findings and notify the parties to such complaint. In its discretion, the commission shall either refer the matter to the Attorney General for the institution of legal proceedings or notify such parties to cease and desist from further violation. Upon the refusal or failure of such parties to comply or if the commission finds that the facts or circumstances warrant immediate prosecution, the commission shall file a complaint with the Attorney General or with any prosecuting attorney of this state, requesting that such officer commence any or all actions authorized in this article against such respondent or respondents in a court of competent jurisdiction.

History

Code 1981, § 2-8-217, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-218. Falsification of reports, statements, or records; penalty.

- (a) Any person who willfully renders or furnishes a false or fraudulent report, statement, or record required pursuant to this article or any marketing order effective under this article shall be guilty of a misdemeanor.
- (b) Any person who violates any provision of this article or any provision of any marketing order duly issued by the commission under this article shall be guilty of a misdemeanor.
- (c) The penalties and remedies prescribed in this article with respect to any violation mentioned shall be concurrent and alternative. Neither singly nor combined shall such penalties and remedies be exclusive; rather, either singly or combined, such penalties and remedies shall be cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided or allowed by law with respect to any such violation.

History

Code 1981, § 2-8-218, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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2-8-219. Regulatory authority.

The department shall promulgate rules for the administration and enforcement of this article. The promulgation, adoption, and amendment of rules and regulations by the commission shall be subject to the requirements of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act”.

History

Code 1981, § 2-8-219, enacted by Ga. L. 2019, p. 91, § 1/HB 512.

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O.C.G.A. Title 2, Ch. 9, Art. 1

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Article 1 General Provisions

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O.C.G.A. § 2-9-1

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 1 General Provisions (§§ 2-9-1 — 2-9-16)

2-9-1. Definitions.

As used in this article, the term:

- (1) “Agricultural products” includes fruits, vegetables, pecans, and cotton but does not include dairy products, tobacco, grains, eggs, and other basic farm crops.
- (2) “Dealer in agricultural products” means any person, association, itinerant dealer, partnership, or corporation engaged in the business of buying, receiving, selling, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any agricultural products purchased from the producer or his or her agent or representative or received on consignment from the producer or his or her agent or representative or received to be handled on a net return basis from the producer. The term “dealer in agricultural products” also includes any person buying, selling, processing, or shelling pecan nuts, including any and every kind and variety of pecan nuts.
- (3) “Net return basis” means a purchase for sale of agricultural products from a producer or shipper at a price which is not fixed or stated at the time the agricultural products are shipped from the point of origin. The term includes all purchases made “at the market price,” “at net worth,” and on similar terms indicating that the buyer is the final arbiter of the price to be paid.
- (4) “On consignment” means any receiving or sale of agricultural products for the account of a person, other than the seller, wherein the seller acts as the agent for the owner.
- (5) “Producer” means any producer of agricultural products.

History

Ga. L. 1956, p. 617, § 1; Ga. L. 1957, p. 7, § 1; Ga. L. 1962, p. 127, § 1; Ga. L. 1962, p. 636, § 1; Ga. L. 1978, p. 1450, § 1; Ga. L. 1991, p. 1053, § 1; Ga. L. 1992, p. 2149, § 1; Ga. L. 1999, p. 800, § 1; Ga. L. 2000, p. 1510, § 1; Ga. L. 2013, p. 797, § 1/ HB 268.

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O.C.G.A. § 2-9-2

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 1 General Provisions (§§ 2-9-1 — 2-9-16)

2-9-2. License required.

It shall be unlawful for any dealer in agricultural products who comes within the terms of this article to engage in such business in this state without a state license issued by the Commissioner.

History

Ga. L. 1956, p. 617, § 3.

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O.C.G.A. § 2-9-3

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2-9-3. Application for license.

Every dealer in agricultural products desiring to transact business in this state shall file an application for such license with the Commissioner. The application shall be on a form furnished by the Commissioner and, together with such other information as the Commissioner shall require, shall state:

- (1) The kind or kinds of agricultural products the applicant proposes to handle;
- (2) The full name or title of the applicant or, if the applicant is an association or partnership, the name of each member of such association or partnership or, if the applicant is a corporation, the name of each officer of the corporation;
- (3) The names of the local agent or agents of the applicant, if any; and
- (4) The municipalities within which places of business of the applicant will be located, together with the street or mailing address of each such place of business.

History

Ga. L. 1956, p. 617, § 4.

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O.C.G.A. § 2-9-4

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2-9-4. Issuance of license.

Unless the Commissioner refuses the application on one or more of the grounds provided in Code Section 2-9-7, he or she shall issue to such applicant, upon the execution and delivery of a bond as provided in Code Section 2-9-5, a state license entitling the applicant to conduct business as a dealer in agricultural products. An annual fee not to exceed \$400.00 shall be required before a license is issued. Such license shall be valid until revoked or suspended as provided in this article, or until the annual license renewal fee is unpaid.

History

Ga. L. 1956, p. 617, § 5; Ga. L. 2013, p. 797, § 2/HB 268.

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O.C.G.A. § 2-9-5

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2-9-5. Bond — Required.

Before any license is issued the applicant shall make and deliver to the Commissioner a surety bond executed by a surety corporation authorized to transact business in this state and approved by the Commissioner. Any and all bond applications shall be accompanied by a certificate of “good standing” issued by the Commissioner of Insurance. If any company issuing a bond shall be removed from doing business in this state, it shall be the duty of the Commissioner of Insurance to notify the Commissioner of Agriculture within 30 days. The bond shall be in such amount as the Commissioner may determine, not exceeding an amount equal to the maximum amount of products purchased from or sold for Georgia producers or estimated to be purchased or sold in any month by the applicant; provided, however, that the minimum amount of such bond shall be \$10,000.00 and the maximum amount of such bond shall be \$230,000.00; provided, further, that in the case of pecans, such bond shall not exceed \$500,000.00. Such bond shall be upon a form prescribed or approved by the Commissioner and shall be conditioned to secure the faithful accounting for and payment to producers or their agents or representatives of the proceeds of all agricultural products handled or sold by such dealer. However, in lieu of a surety bond, the Commissioner may accept a cash bond, which shall in all respects be subject to the same claims and actions as would exist against a surety bond. Whenever the Commissioner shall determine that a previously approved bond has for any cause become insufficient, the Commissioner may require an additional bond or bonds to be given, conforming with the requirements of this Code section. Unless the additional bond or bonds are given within the time fixed by written demand therefor, or if the bond of a dealer is canceled, the license of such person shall be immediately revoked by operation of law without notice or hearing and such person shall be ineligible to reapply for such license for a period of four years after such revocation.

History

Ga. L. 1956, p. 617, § 6; Ga. L. 1991, p. 1053, § 2; Ga. L. 1992, p. 2149, § 2; Ga. L. 1999, p. 800, § 2; Ga. L. 2000, p. 1510, § 2; Ga. L. 2013, p. 797, § 3/ HB 268.

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O.C.G.A. § 2-9-6

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2-9-6. Bond — Breach of conditions; complaint to Commissioner; hearing and settlement; action on bond; pro rata distribution of insufficient bond proceeds.

(a) Any person claiming that he or she has been damaged by a breach of the conditions of a bond given by a licensee as provided in Code Section 2-9-5 may enter a complaint to the Commissioner. Such complaint shall be a written statement of the facts constituting the complaint and must be made within 180 days of the alleged breach. If the Commissioner determines that the complaint is prima facie a breach of the bond, and the matter can not be amicably resolved within 15 days, the Commissioner shall publish a solicitation for additional complaints regarding breaches of the bond for a period of not less than five consecutive issues in a newspaper of general circulation and in such other publications as the Commissioner shall prescribe. Additional complaints must be filed within 60 days following initial public notification of a breach of the bond. Civil actions on the breach of such bond shall not be commenced less than 120 days nor more than 547 days from the initial date of public notification of such breach of the bond.

(b) Upon the filing of such complaint in the manner provided in this Code section, the Commissioner shall investigate the charges made and at his discretion order a hearing before him, giving the party complained of notice of the filing of such complaint and the time and place of such hearing. At the conclusion of the hearing the Commissioner shall report his findings and render his conclusion upon the matter complained of to the complainant and respondent in each case, who shall have 15 days thereafter in which to make effective and satisfy the Commissioner's conclusions.

(c) If such settlement is not effected within such time, the Commissioner or the producer may bring an action to enforce the claim. If the producer is not satisfied with the ruling of the Commissioner, he may commence and maintain an action against the principal and surety on the bond of the parties complained of as in any civil action.

(d) If the bond or collateral posted is insufficient to pay in full the valid claims of producers, the Commissioner may direct that the proceeds of such bond shall be divided pro rata among such producers.

History

Ga. L. 1956, p. 617, § 7; Ga. L. 1982, p. 3, § 2; Ga. L. 1996, p. 335, § 1; Ga. L. 1998, p. 556, § 1.

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2-9-7. Denial, suspension, or revocation of license — Grounds generally.

The Commissioner may decline to grant a license or may suspend or revoke a license already granted if he is satisfied that the applicant or licensee has:

- (1) Suffered a money judgment to be entered against him upon which execution has been returned unsatisfied;
- (2) Made false charges for handling or services rendered;
- (3) Failed to account promptly and properly or to make settlements with any producer;
- (4) Made any false statement or statements as to condition, quality, or quantity of goods received or held for sale when he could have ascertained the true condition, quality, or quantity by reasonable inspection;
- (5) Made any false or misleading statement or statements as to market conditions or service rendered;
- (6) Been guilty of a fraud in the attempt to procure or in the procurement of a license; or
- (7) Directly or indirectly sold agricultural products received on consignment or on a net return basis for his own account, without prior authority from the producer consigning the same or without notifying such producer.

History

Ga. L. 1956, p. 617, § 11.

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2-9-8. Denial, suspension, or revocation of license — Notice and hearing.

Before the Commissioner refuses a license or suspends or revokes any license, he shall give the applicant or licensee ten days' notice, by registered or certified mail or statutory overnight delivery, of a time and place of hearing. At such hearing the applicant or licensee shall be privileged to appear in person or by or with counsel and to produce witnesses. If the Commissioner finds that the applicant or licensee has committed any violation of this article or any of the rules or regulations promulgated hereunder, the Commissioner may refuse, suspend, or revoke such license. He shall give immediate notice of his action to the applicant or licensee.

History

Ga. L. 1956, p. 617, § 12; Ga. L. 2000, p. 1589, § 3.

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2-9-9. Consignment records; settlement with producer.

(a) Every dealer in agricultural products, upon the receipt of agricultural products on a consignment basis and as he handles and disposes of the same, shall make and preserve for at least one year a record thereof, specifying:

- (1) The name and address of the producer consigning such agricultural products;
- (2) The date of receipt;
- (3) The kind and quality of such products;
- (4) The amount of goods sold;
- (5) The name and address of the purchaser, provided that where sales total less than \$5.00 in value, such sales may be made to the order of "cash";
- (6) The selling price; and
- (7) The items of expenses connected therewith.

(b) An "account of sales," together with payment in settlement for such shipment, shall be mailed to the producer within 48 hours after the sale of such agricultural products, unless otherwise agreed in writing.

History

Ga. L. 1956, p. 617, § 8.

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2-9-9.1. Bale identification numbers on ginned cotton.

Upon ginning cotton into bales, the ginner shall assign each bale a permanent bale identification number. No bale shall be removed from a gin except when accompanied by a cotton bale voucher issued by the gin, containing the permanent bale identification number and issued in the name of the cotton producer. Except for removal to a bonded warehouse in the name of the cotton producer, transfers or sales from the cotton producer after ginning shall be endorsed by his or her signature on the cotton bale voucher or forms authorized by the Commissioner of Agriculture.

History

Code 1981, § 2-9-9.1, enacted by Ga. L. 1999, p. 800, § 3.

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2-9-10. Investigations.

- (a) Upon the complaint of any interested person or upon his own initiative, the Commissioner shall have the power to investigate:
- (1) The record of any applicant or licensee;
 - (2) Any transaction involving the solicitation, receipt, sale, or attempted sale of agricultural products;
 - (3) The failure to pay proper and true accounts and settlements at prompt and regular intervals;
 - (4) The making of false statements as to condition, quality, or quantity of goods received or in storage;
 - (5) The making of false statements as to market conditions with intent to deceive;
 - (6) The failure to make payment for goods received; or
 - (7) Other alleged injurious transactions.
- (b) For the purposes specified in subsection (a), the Commissioner or his agents may examine the ledgers, books of accounts, memoranda, and other documents which relate to the transaction involved, at the place or places of business of the applicant or licensee, and may take testimony thereon under oath.

History

Ga. L. 1956, p. 617, § 9.

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2-9-11. Inspections of damaged shipments; certificate.

Whenever produce is shipped to or received by a licensed dealer for handling, purchase, or sale in this state at any market point and the dealer finds the produce to be in a spoiled, damaged, unmarketable, or unsatisfactory condition, unless both parties waive inspection before sale or other disposition thereof, the dealer shall cause the produce to be examined by an inspector assigned by the Commissioner for that purpose. The inspector shall execute and deliver a certificate to the applicant stating the day, the time, and the place of the inspection and the condition of the produce and shall mail or deliver a copy of such certificate to the shipper.

History

Ga. L. 1956, p. 617, § 10.

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O.C.G.A. § 2-9-11.1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 1 General Provisions (§§ 2-9-1 — 2-9-16)

2-9-11.1. Ownership of agricultural product harvested by dealer, agent or employee, or independent contractor retained by dealer; prompt payment; certificate of receipt and quality.

(a) In the absence of a written contract between the producer and a dealer in agricultural products to the contrary, any agricultural product which is harvested by a dealer, an agent or employee of a dealer, or an independent contractor retained by a dealer or which is delivered to a dealer or an agent or employee thereof on the farm or at a facility of the dealer shall become the property of the dealer at the time of delivery and the dealer shall become obligated to pay the agreed-upon price as provided in subsection (b) of this Code section.

(b) A dealer in agricultural products shall make prompt payment for agricultural products purchased in this state. Prompt payment shall mean payment 20 days following delivery, as provided in subsection (a) of this Code section, unless explicitly stated otherwise in a written contract agreed to by the producer and dealer in agricultural products.

(c) Unless explicitly stated otherwise in a written contract, at the time of delivery as specified in subsection (a) of this Code section, the dealer and the producer in agricultural products shall jointly issue a certificate of receipt and quality to the producer or the producer's agent. The certificate of receipt and quality shall contain information, including but not limited to the:

- (1) Name and address of the dealer in agricultural products;
- (2) Name and address of the producer;
- (3) Delivery date and time of receipt;
- (4) Description of the product as to identity, quantity, quality, condition, and grade of the product;
- (5) Price per unit; and
- (6) Terms of the transaction.

Information contained in the certificate of receipt and quality pertaining to quality, quantity, and price shall be presumed to be satisfied unless such agricultural product is inspected and a certificate stating the product is in a different condition is issued by an inspector pursuant to Code Section 2-9-11 within 48 hours of delivery of the agricultural product to the dealer.

(d) This Code section does not preclude the producer from commencing and maintaining an action against the dealer as in any civil action.

History

Code 1981, § 2-9-11.1, enacted by Ga. L. 1992, p. 1282, § 1; Ga. L. 1993, p. 440, § 1.

O.C.G.A. § 2-9-11.1

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O.C.G.A. § 2-9-12

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 1 General Provisions (§§ 2-9-1 — 2-9-16)

2-9-12. Sale or possession of substandard products prohibited.

(a) It shall be unlawful for any dealer in agricultural products to sell, offer for sale, or possess any agricultural product that does not comply with the standards of quality established by the Commissioner under authority of law or with the laws and rules and regulations pertaining to such product.

(b) It is the intent and purpose of this Code section to prevent the sale of agricultural products that do not comply with the laws, standards of quality, and rules and regulations pertaining thereto.

History

Ga. L. 1962, p. 127, § 2.

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O.C.G.A. § 2-9-13

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 1 General Provisions (§§ 2-9-1 — 2-9-16)

2-9-13. Rules and regulations.

The Commissioner shall adopt and enforce rules and regulations deemed necessary to carry out this article.

History

Ga. L. 1956, p. 617, § 13.

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O.C.G.A. § 2-9-14

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2-9-14. Injunctions.

In addition to the other remedies provided in this article and notwithstanding the existence of any adequate remedy at law, the Commissioner is authorized to apply to the superior court, which court shall have jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate this article or from failing or refusing to comply with this article or any rule or regulation adopted by the Commissioner as provided in this article. Such injunction shall be issued without bond.

History

Ga. L. 1956, p. 617, § 15.

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O.C.G.A. § 2-9-15

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 1 General Provisions (§§ 2-9-1 — 2-9-16)

2-9-15. Applicability of article.

(a) This article shall not apply to:

- (1)** Farmers or groups of farmers in the sale of agricultural products grown by themselves;
- (2)** Persons who buy for cash, paying at the time of purchase in United States currency, certified check, cashier's check, or the equivalent; or
- (3)** Holders of food sales establishment licenses issued pursuant to Article 2 of Chapter 2 of Title 26, the "Georgia Food Act," who conduct no business at the wholesale level and who have fewer than ten employees.

(b) No warehouse that is in full compliance with the provisions of Article 1 of Chapter 4 of Title 10 shall be required to obtain a license or maintain a surety bond under this article.

History

Ga. L. 1956, p. 617, § 2; Ga. L. 1978, p. 1450, § 2; Ga. L. 1991, p. 1053, § 3; Ga. L. 1992, p. 2149, § 3; Ga. L. 2000, p. 1510, § 3; Ga. L. 2013, p. 797, § 4/HB 268.

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O.C.G.A. § 2-9-16

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 1 General Provisions (§§ 2-9-1 — 2-9-16)

2-9-16. Penalty.

Any dealer in agricultural products who violates any of the provisions of this article or who interferes with an agent of the Commissioner in the enforcement of this article shall be guilty of a misdemeanor.

History

Ga. L. 1956, p. 617, § 15.

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O.C.G.A. Title 2, Ch. 9, Art. 2

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 2 Grain Dealers (§§ 2-9-30 — 2-9-45)

Article 2 Grain Dealers

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O.C.G.A. § 2-9-30

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 2 Grain Dealers (§§ 2-9-30 — 2-9-45)

2-9-30. Definitions.

As used in this article, the term:

- (1)** “Grain” means all products commonly classified as grain, including, but not limited to, wheat, corn, oats, barley, rye, field peas, soybeans, clover, and grain sorghum. The term does not include grain which has been produced or packaged for purchase or distribution as seed.
- (2)** “Grain dealer” means any person, association, itinerant dealer, partnership, or corporation engaged in the business of buying, receiving, selling, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any grain purchased from the producer or his or her agent or representative, received on consignment from the producer or his or her agent or representative, or received to be handled on a net return basis from the producer.
- (3)** “On consignment” means any receipt or sale of grain for the account of a person other than the seller in which the seller acts as the agent for the owner.
- (4)** “Producer” means any producer of grain.

History

Ga. L. 1976, p. 512, § 1; Ga. L. 2013, p. 797, § 5/HB 268.

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O.C.G.A. § 2-9-31

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 2 Grain Dealers (§§ 2-9-30 — 2-9-45)

2-9-31. License required.

It shall be unlawful for any dealer in grain who comes within the terms of this article to engage in such business in this state without a state license issued by the Commissioner.

History

Ga. L. 1976, p. 512, § 3.

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O.C.G.A. § 2-9-32

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2-9-32. Application for license.

- (a) Every grain dealer desiring to transact business in this state shall file an application for a license with the Commissioner. The application shall be on a form furnished by the Commissioner and, together with such other information as the Commissioner shall require, shall state:
- (1) The name of the business;
 - (2) The business address of the applicant;
 - (3) The complete telephone number of the applicant;
 - (4) The type of ownership, whether individual, partnership, corporation, or other;
 - (5) The name of the owner or, if a partnership or corporation, the name of the partners or stockholders;
 - (6) The names of the certified public weighers;
 - (7) The name of the manager; and
 - (8) The dollar value of business transacted from producers for the highest month during the preceding calendar year.
- (b)
- (1) Each applicant for a license or renewal shall furnish with his application a current financial statement which shall include:
 - (A) A balance sheet;
 - (B) A profit and loss statement of income;
 - (C) A statement of retained earnings; and
 - (D) A statement of changes in financial position.
 - (2) The chief executive officer for the business shall certify under penalties of perjury that the statements as prepared accurately reflect the financial condition of the business as of the date named and fairly represent the results of operations for the period named.
 - (3) Except as otherwise provided in this paragraph, each applicant shall have the financial statements required in paragraph (1) of this subsection audited by an independent certified public accountant. Alternatively, financial statements audited or reviewed by an independent public accountant will be accepted with the understanding that the applicant will be subject to an additional on-site examination by the Commissioner and to an audit by the Commissioner. Audits and reviews by independent certified public accountants and independent public accountants specified in this Code section shall be made in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's certification, assurances, opinion, comments, and notes on such statements, if any, shall be furnished along with the statements. Applicants who cannot immediately meet these requirements may apply to the Commissioner for a temporary waiver of this provision. The Commissioner may grant such waiver for a temporary period not to exceed 180 days if the applicants can furnish evidence of good and substantial reasons therefor. This paragraph shall not be applicable

to any applicant who maintains a bond in the maximum amount required by subsection (a) of Code Section 2-9-34.

History

Ga. L. 1976, p. 512, § 4; Ga. L. 1983, p. 831, § 1; Ga. L. 1988, p. 748, § 1.

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O.C.G.A. § 2-9-33

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2-9-33. Issuance, renewal, and expiration of license.

Unless the Commissioner refuses the application on one or more of the grounds provided in Code Section 2-9-36, he or she shall issue to an applicant, upon the execution and delivery of a bond as provided in Code Section 2-9-34, a state license entitling the applicant to conduct business as a dealer in grain. A fee in an amount fixed by rule or regulation of the Commissioner at not less than \$100.00 nor more than \$150.00 per annum shall be charged for such license. All such licenses shall be renewed annually on or before June 30. Any license which is not renewed on or before such date shall expire on June 30. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

History

Ga. L. 1976, p. 512, § 5; Ga. L. 1985, p. 643, § 1; Ga. L. 1992, p. 2132, § 1; Ga. L. 2010, p. 9, § 1-6/HB 1055.

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O.C.G.A. § 2-9-34

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 2 Grain Dealers (§§ 2-9-30 — 2-9-45)

2-9-34. Bond — Required.

- (a) Before any license is issued, the applicant shall make and deliver to the Commissioner a surety bond in the amount of 20 percent of the average of the highest dollar volume of grain purchases from producers made in any single month for each of the three preceding calendar years or such shorter period of years as the applicant has done business as a grain dealer, provided that the minimum amount of such bond shall be \$20,000.00 and the maximum amount of such bond shall be \$300,000.00. If a licensed grain dealer operates his or her grain-dealing activities at more than one physical location, he or she shall furnish a surety bond for each location of grain-dealing activities, each bond to be computed as stated in this Code section and each bond to be subject to the minimum and maximum amounts stated in this Code section. The bonds shall be executed by a surety corporation authorized to transact business in this state and approved by the Commissioner. Any and all bond applications shall be accompanied by a certificate of “good standing” issued by the Commissioner of Insurance. If any company issuing a bond shall be removed from doing business in this state, it shall be the duty of the Commissioner of Insurance to notify the Commissioner of Agriculture within 30 days. Such bonds shall be upon forms prescribed by the Commissioner and shall be conditioned to secure the faithful accounting for and payment to the producers or their agents or representatives of the proceeds of all grain handled or sold by such dealer. Whenever the Commissioner shall determine that a previously approved bond has for any cause become insufficient, the Commissioner may require an additional bond or bonds to be given, conforming with the requirements of this Code section. Unless the additional bond or bonds are given within the time fixed by written demand therefor, or if the bond of a dealer is canceled, the license of such person shall be immediately revoked by operation of law without notice or hearing.
- (b) In lieu of a surety bond, the Commissioner may accept a cash bond which shall be subject in all respects to the same claims and actions as would exist against a surety bond.
- (c) If the surety bond or cash bond of a licensed grain dealer is canceled, the license of such grain dealer shall immediately be revoked by operation of law without notice or hearing.

History

Ga. L. 1976, p. 512, § 6; Ga. L. 1977, p. 245, § 2; Ga. L. 1981, p. 927, § 1; Ga. L. 1983, p. 3, § 3; Ga. L. 1983, p. 831, § 2; Ga. L. 1985, p. 643, § 2; Ga. L. 1999, p. 800, § 4; Ga. L. 2013, p. 797, § 6/ HB 268.

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2-9-35. Bond — Breach of conditions; complaint to Commissioner; hearing and settlement; action on bond; pro rata distribution of insufficient bond proceeds.

(a) Any person claiming that he or she has been damaged by a breach of the conditions of a bond given by a licensee as provided in Code Section 2-9-34 may enter a complaint to the Commissioner. Such complaint shall be a written statement of the facts constituting the complaint and must be made within 180 days of the alleged breach. If the Commissioner determines that the complaint is prima facie a breach of the bond, and the matter can not be amicably resolved within 15 days, the Commissioner shall publish a solicitation for additional complaints regarding breaches of the bond for a period of not less than five consecutive issues in a newspaper of general circulation and in such other publications as the Commissioner shall prescribe. Additional complaints must be filed within 60 days following initial public notification of a breach of the bond. Civil actions on the breach of such bond shall not be commenced less than 120 days nor more than 547 days from the initial date of public notification of such breach of the bond.

(b) Upon the filing of the complaint in the manner provided in this Code section, the Commissioner shall investigate the charges made and, at his discretion, order a hearing before him or his hearing officer, giving all parties concerned notice of the filing of such complaint and the time and place of such hearing. At the conclusion of the hearing, the Commissioner shall report his findings and render his conclusion upon the matter complained of to the complainant and respondent in the case, who shall have 15 days following such report in which to make effective and satisfy the Commissioner's conclusions.

(c) If such settlement is not effected within such time, the Commissioner or the producer may institute appropriate legal proceedings to enforce the claim. If the producer is not satisfied with the ruling of the Commissioner, he may commence and maintain an action against the principal and surety on the bond of the parties complained of, as in any civil action.

(d) If the bond or collateral posted is insufficient to pay the valid claims of producers in full, the Commissioner may direct that the proceeds of the bond shall be divided pro rata among the producers.

History

Ga. L. 1976, p. 512, § 9; Ga. L. 1985, p. 643, § 3; Ga. L. 1998, p. 556, § 2.

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O.C.G.A. § 2-9-36

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 2 Grain Dealers (§§ 2-9-30 — 2-9-45)

2-9-36. Denial, suspension, or revocation of license — Grounds.

The Commissioner may decline to grant a license or may suspend or revoke a license already granted if he is satisfied that the applicant or licensee has:

- (1) Suffered a money judgment to be entered against him upon which execution has been returned unsatisfied;
- (2) Made false charges for handling or services rendered;
- (3) Failed to account promptly and properly or to make settlements with any producer;
- (4) Made any false statement or statements as to the condition, quality, or quantity of grain received or held for sale, when he could have ascertained the true condition, quality, or quantity by reasonable inspection;
- (5) Made any false or misleading statement or statements as to market conditions or service rendered;
- (6) Been guilty of a fraud in the attempt to procure or in the procurement of a license;
- (7) Directly or indirectly sold grain received on consignment or on a net return basis for his own account, without prior authority from the producer consigning the same or without notifying such producer; or
- (8) Through any other action, violated this article.

History

Ga. L. 1976, p. 512, § 12.

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O.C.G.A. § 2-9-37

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2-9-37. Denial, suspension, or revocation of license — Notice and hearing.

Before the Commissioner refuses or revokes any license, he shall give the applicant or licensee ten days' notice, by registered or certified mail or statutory overnight delivery, of a time and place of hearing. At such hearing the applicant or licensee shall be privileged to appear in person or by or with counsel and to produce witnesses. If the Commissioner finds the applicant or licensee to be in violation of this article, the Commissioner may refuse, suspend, or revoke such license. He shall give immediate notice of his action to the applicant or licensee.

History

Ga. L. 1976, p. 512, § 13; Ga. L. 1981, p. 927, § 2; Ga. L. 2000, p. 1589, § 3.

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O.C.G.A. § 2-9-38

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2-9-38. Grain to be weighed by certified public weigher.

All grain purchased from a producer by a dealer licensed under this article shall be weighed by a certified public weigher licensed in accordance with Article 2 of Chapter 2 of Title 10, relating to certified public weighers.

History

Ga. L. 1976, p. 512, § 7; Ga. L. 1992, p. 6, § 2.

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O.C.G.A. § 2-9-39

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2-9-39. Scales.

Each grain dealer under this article must be equipped with or have available to him suitable scales which are in good order and so arranged that all grain can be weighed by the dealer. The scales belonging to or used by such grain dealer shall be subject to examination by representatives of the Commissioner and to disapproval by the Commissioner. If the Commissioner disapproves of any weighing apparatus, it shall not be used in ascertaining the weight of grain for the purpose of this article until such disapproval is withdrawn.

History

Ga. L. 1976, p. 512, § 8.

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O.C.G.A. § 2-9-40

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2-9-40. Consignment records; settlement with producer.

(a) Upon the receipt of grain products on a consignment basis and as he handles and disposes of the grain products, every grain dealer shall make a record thereof and shall preserve such record for at least one year. The record shall specify:

- (1) The name and address of the producer consigning such grain;
- (2) The date of receipt;
- (3) The kind and quality of the grain;
- (4) The amount sold;
- (5) The name and address of the purchaser, provided that where sales total less than \$5.00 in value, such sales may be made to the order of "cash";
- (6) The selling price; and
- (7) The items of expenses connected therewith.

(b) An "account of sales," together with payment in settlement for the shipment, shall be mailed to the producer within 48 hours after the sale of the grain, unless otherwise agreed to in writing.

History

Ga. L. 1976, p. 512, § 10.

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O.C.G.A. § 2-9-41

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2-9-41. Investigations.

(a) Upon the complaint of any interested person or upon his own initiative, the Commissioner shall have the power to investigate:

- (1) The record of any applicant or licensee;
- (2) Any transaction involving the solicitation, receipt, sale, or attempted sale of grain;
- (3) The failure to pay proper and true accounts and settlements at prompt and regular intervals;
- (4) The making of false statements as to condition, quality, or quantity of grain received or in storage;
- (5) The making of false statements as to market conditions with intent to deceive;
- (6) The failure to make payment for grain received; or
- (7) Other alleged injurious transactions.

(b) For such purposes, the Commissioner or his agents may examine the ledgers, books of accounts, memoranda, and other documents which relate to the transaction involved, at the place or places of business of the applicant, licensee, or unlicensed person, partnership, corporation, or other entity, and may take testimony thereon under oath.

History

Ga. L. 1976, p. 512, § 11; Ga. L. 1988, p. 748, § 2.

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O.C.G.A. § 2-9-42

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 2 Grain Dealers (§§ 2-9-30 — 2-9-45)

2-9-42. Rules and regulations.

The Commissioner shall adopt and enforce rules and regulations deemed necessary to carry out this article.

History

Ga. L. 1976, p. 512, § 14.

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O.C.G.A. § 2-9-42.1

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2-9-42.1. Publication of names, locations, and manner of payment by licensed grain dealers.

The Commissioner may publish in print or electronically the names and locations of licensed grain dealers and the names and locations of those operations certifying that payment will be made on a cash or certified check basis.

History

Ga. L. 1981, p. 927, § 3; Ga. L. 2010, p. 838, § 10/SB 388.

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2-9-43. Injunctions.

In addition to the other remedies provided in this article and notwithstanding the existence of any adequate remedy at law, the Commissioner is authorized to apply to the superior court, which court shall have jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate this article or from failing or refusing to comply with this article or any rule or regulation adopted by the Commissioner as provided in this article. Such injunction shall be issued without bond.

History

Ga. L. 1976, p. 512, § 16.

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O.C.G.A. § 2-9-44

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 2 Grain Dealers (§§ 2-9-30 — 2-9-45)

2-9-44. Applicability of article.

This article shall not apply to:

- (1) Farmers in the sale of grain grown by themselves;
- (2) Persons who buy for cash, paying at the time of the purchase in United States currency, certified check, or cashier's check; or
- (3) Persons licensed and bonded in accordance with Article 1 of Chapter 4 of Title 10, the "Georgia State Warehouse Act."

History

Ga. L. 1976, p. 512, § 2; Ga. L. 1977, p. 245, § 1; Ga. L. 1982, p. 3, § 2; Ga. L. 1983, p. 831, § 3.

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O.C.G.A. § 2-9-45

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 9 Dealers in Agricultural Products (Arts. 1 — 2) > Article 2 Grain Dealers (§§ 2-9-30 — 2-9-45)

2-9-45. Penalty.

Any dealer in grain who violates any of the provisions of this article or who interferes with an agent of the Commissioner in the enforcement of this article shall be guilty of a misdemeanor.

History

Ga. L. 1976, p. 512, § 16.

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O.C.G.A. Title 2, Ch. 10

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10
Marketing Facilities, Organizations, and Programs (Arts. 1 — 4)***

CHAPTER 10 Marketing Facilities, Organizations, and Programs

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O.C.G.A. Title 2, Ch. 10, Art. 1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 1 Georgia Building Authority (Markets) (§§ 2-10-1 — 2-10-39)

Article 1 Georgia Building Authority (Markets)

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O.C.G.A. § 2-10-1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 1 Georgia Building Authority (Markets) (§§ 2-10-1 — 2-10-39)

2-10-1 through 2-10-39. [Reserved]

History

Ga. L. 1955, p. 224, §§ 1-8, 10-39; Ga. L. 1957, p. 3, § 1; Ga. L. 1964, p. 85, §§ 1-3; Ga. L. 1967, p. 652, § 1; Ga. L. 1967, p. 866, §§ 1-4; Ga. L. 1972, p. 1015, § 418; Ga. L. 1982, p. 3, § 2; Ga. L. 1983, p. 3, § 46; Ga. L. 1988, p. 426, § 1; repealed by Ga. L. 2008, p. 224, § 1, effective July 1, 2008.

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O.C.G.A. Title 2, Ch. 10, Art. 2

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 2 Farmers' Markets (§§ 2-10-50 — 2-10-62)

Article 2 Farmers' Markets

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O.C.G.A. § 2-10-50

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 2 Farmers' Markets (§§ 2-10-50 — 2-10-62)

2-10-50. Short title.

This article shall be known as the “Georgia Marketing Act of 1981.”

History

Ga. L. 1981, p. 1354, § 1.

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O.C.G.A. § 2-10-51

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 2 Farmers' Markets (§§ 2-10-50 — 2-10-62)

2-10-51. Purpose of article.

This article is intended to promote the handling, packing, transporting, storage, distribution, inspection, and sale of agricultural products and to assist producers and consumers in selling and purchasing such products under fair conditions. It is the further intent and purpose of this article to authorize the Commissioner to control the operation of farmers' markets.

History

Ga. L. 1981, p. 1354, § 2.

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O.C.G.A. § 2-10-52

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 2 Farmers' Markets (§§ 2-10-50 — 2-10-62)

2-10-52. Definitions.

As used in this article, the term:

- (1) "Agricultural products" means fruits, vegetables, pecans, nuts, eggs, dairy products, forestry and horticultural products, fish, seafood, meat, poultry, and other such products of farm, field, and water, whether fresh, frozen, canned, or otherwise packaged.
- (2) "False pack" means the topping or facing of containers with the best products exposed and poor products concealed underneath.
- (3) "Farmers' market" means any place within this state where farmers or producers may sell, bring or send to sell, exhibit, or transship agricultural products; or where buyers may come to buy, inspect, or transport agricultural products; or where such products may be processed or stored for sale, either at wholesale or retail. This term shall include all real and personal property, buildings, warehouses, storage facilities, barns, exhibition halls, and other structures, facilities, utilities, parking areas, streets, tracks, and other appurtenances and facilities, including, but not limited to, restaurants, service stations, and other like facilities of every kind and character used or useful at such place in promoting the buying, selling, or exchange of agricultural products. Use of such facilities shall not be limited to the buying, selling, or exchange of agricultural products so long as their use promotes the buying, selling, or exchange of such agricultural products as determined by the Commissioner. This definition shall include and not prohibit the sale of grocery items or other items commonly sold or offered for sale in conjunction with the sale of agricultural products.
- (4) "Lease" means the creation of a written instrument (a lease) under the terms and conditions of which one party (lessor) out of its own estate grants and conveys to another party or parties (lessee or lessees) an estate for years retaining a reversion in itself after such grant and conveyance.
 - (4.1) "License" means revocable written permission from the Commissioner on a form prescribed by him or her whereby a person or entity has limited authority to enter the property of a farmers' market to offer for sale and sell sundry items at such market. Such a license is a mere privilege and does not confer upon the licensee any title, interest, or estate in any such market, its premises, or any space thereof.
- (5) "Person" means any individual, limited or general partnership, association, firm, company, or corporation.
- (6) "Real property" means both improved and unimproved real property and shall also include space in and on the real property.
- (7) "Rent" means the creation of a written instrument (a rental agreement) the terms and conditions of which create the relationship of landlord and tenant. Under such relationship no estate passes out of the landlord and the tenant has only a usufruct.
- (8) "Day," "month," and "year" means "calendar day," "calendar month," and "calendar year."
- (9) "State" means the State of Georgia.

History

Ga. L. 1981, p. 1354, §§ 3, 14; Ga. L. 1990, p. 320, § 1; Ga. L. 2004, p. 1066, § 1.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 2 Farmers' Markets (§§ 2-10-50 — 2-10-62)

2-10-53. Powers and duties of Commissioner generally.

The Commissioner of Agriculture is charged with the duty of establishing, operating, and maintaining farmers' markets and is charged with the responsibility of enforcing this article. In addition to any other powers conferred on him by this article, he may:

- (1) Investigate methods and practices in connection with the production, handling, standardizing, grading, classifying, sorting, weighing, packing, transporting, storing, inspecting, and sale of agricultural products of all kinds within the state and all matters relevant thereto;
- (2) Gather, formulate, and disseminate, in such form and at such times as he deems advisable, information relating to the matters included within paragraph (1) of this Code section;
- (3) Disseminate, in such form and at such times as he deems advisable, information relating to market conditions, including, but not limited to, the supply, demand, and prices for all agricultural products and such other information as may benefit the producers, purchasers, and consumers of this state;
- (4) Ascertain sources of supply of agricultural products and publish in print or electronically the names and addresses of producers and consignors thereof;
- (5) Assist and advise in the organization and the operation of cooperatives and other associations in order to improve relations and services among producers, distributors, and consumers;
- (6) Investigate delays, embargoes, conditions, practices, charges, and rates in the transportation and handling of agricultural products and, when deemed necessary, cause proceedings to be instituted before the proper authority or tribunal to improve and adjust same and cause the proper proceedings to be instituted to prevent unlawful combinations or agreements in restraint of trade or the fixing of prices;
- (7) Take such steps as he deems advisable to prevent the waste or spoilage of agricultural products;
- (8) Secure the cooperation and assistance of the United States Department of Agriculture or any other agency or department of the United States or of other states;
- (9) Secure the cooperation and assistance of the other departments and agencies of this state, the University of Georgia, the other colleges and universities of the University System of Georgia, and other organizations that may be of assistance; and
- (10) Take such other measures as shall be proper for carrying out the purposes of this article.

History

Ga. L. 1917, p. 77, § 3; Code 1933, § 5-204; Ga. L. 1935, p. 369, §§ 2-4, 13; Ga. L. 1956, p. 215, § 1; Ga. L. 1959, p. 242, § 1; Ga. L. 1981, p. 1354, §§ 4, 5; Ga. L. 2010, p. 838, § 10/SB 388.

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2-10-53.1. Oversight by legislative advisory committee; membership; duties; expiration.

- (a) The Commissioner shall establish, operate, and maintain this state's farmers' markets under the oversight of a legislative advisory committee to be composed as follows:
- (1) The chairpersons of the House Appropriations Subcommittee for Economic Development and Tourism and the Senate Appropriations Subcommittee for Agriculture and Consumer Affairs or their designees, ex officio;
 - (2) The chairperson of the House Agriculture and Consumer Affairs Committee or his or her designee;
 - (3) The chairperson of the Senate Agriculture and Consumer Affairs Committee or his or her designee;
 - (4) Three members of the House of Representatives appointed by the chairperson of the House Agriculture and Consumer Affairs Committee; and
 - (5) Three members of the Senate appointed by the chairperson of the Senate Agriculture and Consumer Affairs Committee.
- (b) The members of the legislative advisory committee shall appoint the committee's chairperson and vice-chairperson, who shall each serve two-year terms to coincide with the legislative biennium of the General Assembly.
- (c) The members of the legislative advisory committee shall receive the allowances provided for in Code Section 28-1-8.
- (d) The legislative advisory committee created by this Code section shall be tasked with the duty to:
- (1) Commission an independent study of the economic viability and public benefit of each existing farmers' market with an analysis of the benefits to this state's agribusiness economy, including this state's farmers, food supply chain, grocers, restaurants, agri-tourism, local economies, and the effectiveness of the marketing of Georgia grown products. Upon completion of the study, the findings shall be presented to the legislative advisory committee; and
 - (2) Using such findings as provided for in paragraph (1) of this subsection, coordinate with the Commissioner and the department to develop a five-year plan for all of this state's farmers' markets that maximizes the public benefit of all farmers' market properties and ensures efficient and fiscally responsible operation of such markets.
- (e) This Code section shall stand repealed on January 10, 2027.

History

Code 1981, § 2-10-53.1, enacted by Ga. L. 2021, p. 434, § 1/HB 676.

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2-10-54. Employees prohibited from engaging in business as dealer in agricultural products.

All full-time employees of the department whose regular work duties involve the operation of any farmers' market are prohibited from engaging in business as a "dealer in agricultural products," as that term is defined in Code Section 2-9-1, during their term of employment.

History

Ga. L. 1917, p. 77, § 8; Code 1933, § 5-207; Ga. L. 1981, p. 1354, § 6.

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2-10-55. Authority of Commissioner to make inspections, prescribe and collect fees and charges, and assign space on farmers' markets.

- (a) In addition to any powers heretofore granted, the Commissioner shall have the authority to:
- (1) Inspect all agricultural products coming into Georgia markets or offered for sale within the state;
 - (2) Prescribe and collect reasonable fees and charges to pay the necessary costs of operating and maintaining farmers' markets; and
 - (3) Assign space on farmers' markets and make changes in such assignments as circumstances may require.
- (b) Nothing contained in this article shall be construed to limit any power or duty conferred upon the Commissioner by existing law.

History

Ga. L. 1935, p. 369, §§ 5, 7, 8; Ga. L. 1959, p. 242, § 4; Ga. L. 1981, p. 1354, § 7.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 2 Farmers' Markets (§§ 2-10-50 — 2-10-62)

2-10-56. Promulgation of rules and regulations by Commissioner.

The Commissioner is authorized to promulgate such rules and regulations as in his judgment may be necessary to conduct and operate farmers' markets properly and to implement this article. Such rules and regulations may include, but are not limited to, rules and regulations to:

- (1) Establish procedures for the operation of farmers' markets;
- (2) Provide for the maintenance of safety and order;
- (3) Provide for health and sanitation;
- (4) Establish grades and classes of agricultural products;
- (5) Designate places on any market where agricultural products may be sold;
- (6) Regulate or prohibit the sale of produce which is below specified grades or produce unfit for human consumption; and
- (7) Regulate or prohibit the sale of any agricultural product which is below specified grades or unfit for human consumption.

History

Ga. L. 1917, p. 77, § 4; Code 1933, § 5-205; Ga. L. 1935, p. 369, § 6; Ga. L. 1959, p. 242, § 3; Ga. L. 1976, p. 678, § 3; Ga. L. 1981, p. 1354, § 8.

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2-10-57. Authority of Commissioner to provide for safety and security at farmers' markets; police powers.

(a) The Commissioner is authorized to provide for safety and security at the farmers' markets and to make such rules and regulations as are necessary for this purpose. The Commissioner is vested with police powers to enforce this article, rules and regulations promulgated pursuant to this article, and all state laws that govern and control farmers' markets.

(b)

(1) The Commissioner is authorized to employ, designate, deputize, and delegate to employees of the department the authority to exercise the police powers provided under subsection (a) of this Code section at the Atlanta State Farmers' Market in Forest Park. Employees who have been so designated by the Commissioner and who have been certified by the Georgia Peace Officer Standards and Training Council as having successfully completed the course of training required by Chapter 8 of Title 35, the "Georgia Peace Officer Standards and Training Act," are authorized to:

(A) Carry firearms authorized or issued by the Commissioner while in the performance of their duties;

(B) Exercise arrest powers;

(C) Enforce the law and order at the farmers' market;

(D) Order and escort off of the farmers' market those persons who are in trespass and remain in trespass by selling produce or other products without a current license or who are otherwise in violation of this article or rules and regulations promulgated pursuant to this article;

(E) Serve and execute warrants;

(F) Authorize to be towed vehicles that;

(i) Park in designated fire lanes; or

(ii) Are not properly licensed under state law or the law of the state of registration and remain parked on the farmers' market without authorization; and

(G) Enter upon and inspect all property owned, leased, rented, controlled, or used at the farmers' market by persons who hold or have applied for licenses under this article for the purpose of determining compliance with the provisions of this article and other laws the administration or enforcement of which is the responsibility of the Commissioner.

(2) From funds appropriated or available to the department, the Commissioner is authorized to provide motor vehicles, uniforms, firearms, and any other equipment and supplies needed by employees of the department to carry out this subsection.

(c) This Code section shall not repeal, supersede, alter, or affect the power of any other law enforcement officer of this state or of any county, municipality, or other political subdivision of this state to enforce the laws of this state on the premises of farmers' markets. At the request of the Commissioner, it shall be the

O.C.G.A. § 2-10-57

duty of all state, county, municipal, and other law enforcement officers in this state to enforce and to assist the Commissioner and the employees and agents of the department in the enforcement of this article.

History

Ga. L. 1976, p. 678, § 3; Ga. L. 1981, p. 1354, § 9; Ga. L. 2006, p. 899, § 1/ HB 1404.

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2-10-58. Acquisition and rental of real property; format of lease execution; closing of farmers' markets.

(a) The Commissioner, acting for and on behalf of the department and in the name of the state, is authorized to:

(1) Acquire, with the approval of the State Properties Commission, real property for the expansion, development, operation, and maintenance thereon of farmers' markets; and

(2) Rent as landlord or lease as lessor without public advertising or competitive bid real property under the custody of or under rental to the department and utilized as a farmers' market for a term (period of time) commencing on the date of the instrument and not exceeding 20 years and for such use and rental and on such other terms and conditions and to such persons or other entities as he believes, following his negotiation and investigation thereof, to be in the best interests of his office, the department, and the state. The power and authority to rent and lease shall include the power and authority to sublet and sublease.

(b) When the Commissioner acts pursuant to paragraph (1) of subsection (a) of this Code section, the title to the acquired real property shall be in the name of the State of Georgia and the custody of the real property shall be in the department.

(c) When the Commissioner acts pursuant to and under the power and authority to lease set forth in paragraph (2) of subsection (a) of this Code section, the format of the instrument execution shall be as follows:

STATE OF GEORGIA,
Acting by and through its
Department of Agriculture,
a department within the
executive branch of the
state government
of Georgia.

By: (signature line) (SEAL)

Name: (name of
Commissioner
of Agriculture)

Title: Commissioner
of Agriculture

Attest: (signature line) (SEAL)

Name: (name of Secretary
of State)

Title: Secretary of
State of

the State

of Georgia

(Department of Agriculture
seal affixed here)

(Great Seal of the State
of Georgia affixed
to this instrument)

Signed, sealed, and delivered,
(as to [names of Commissioner
of Agriculture and Secretary
of State]) in the presence of:

Unofficial witness

Notary public, official witness

My commission expires

(Notary public seal affixed here)

(d) The Commissioner is further authorized to close a farmers' market. In making the determination of whether a market should be closed, the Commissioner shall consider the need for the particular market from the standpoint of the marketing of agricultural products, the convenience of farmers and consumers, the cost of operating and maintaining the market, and other relevant factors. When a farmers' market is closed by the Commissioner, custody of the real property encompassing the farmers' market may be transferred, with the approval of the Governor, from the department to the State Properties Commission by an executive order of the Governor.

History

O.C.G.A. § 2-10-58

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O.C.G.A. § 2-10-59

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Official Code of Georgia Annotated > **TITLE 2 Agriculture (Chs. 1 — 23)** > **CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4)** > **Article 2 Farmers' Markets (§§ 2-10-50 — 2-10-62)**

2-10-59. License required to sell in farmers' markets; consent to inspection of property; removal from premises.

- (a) In order that the department may better manage the farmers' markets authorized by this article and to thereby facilitate the use of such farmers' markets by the citizens of this state, all persons and their employees, agents, and designees desiring to sell or to offer for sale any items at any farmers' market which charges a gate fee must first obtain a license for this purpose from the Commissioner. A license may be refused, suspended, or revoked in accordance with Code Section 2-10-60.
- (b) By applying for a license or by operating under such license, the applicant or licensee, as the case may be, gives express consent for authorized representatives of the Commissioner to enter upon and inspect all property owned, leased, rented, controlled, or used at the farmers' market by the applicant or licensee.
- (c) The license required by this Code section is in addition to all other applicable licensing laws and shall not constitute an exemption or waiver thereof.
- (d) Any person who enters upon the premises of a farmers' market to sell or offer for sale any items at such market without the license required by subsection (a) of this Code section, if applicable, shall be subject to removal immediately from the farmers' market.

History

Ga. L. 1976, p. 678, § 1; Ga. L. 1981, p. 1354, § 11; Ga. L. 2004, p. 1066, § 2.

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2-10-60. Suspension or revocation of registration, license, or permit; procedure; enforcement of laws, regulations, or orders.

Any other provision of this title or Article 1 of Chapter 13 of Title 50 to the contrary notwithstanding:

- (1)** When the Commissioner, either through investigation or otherwise, has determined that any person has engaged in, is engaging in, or is about to engage in any act, practice, or transaction which is prohibited by any provision of this article or rule promulgated in support of this article governing activities for which registration with or a license or permit from the department is required, whether or not such person has so registered or obtained such a license or permit, the Commissioner may issue an administrative order, if he or she deems it to be in the public interest or necessary for the protection of the citizens of this state, prohibiting such person from continuing such act, practice, or transaction or suspending or revoking any such registration, license, or permit held by such person. The administrative order shall be final and effective ten days after issuance. The administrative order and notice of right to a hearing shall be served in person by the Commissioner or his or her agent or by certified mail or statutory overnight delivery, return receipt requested. The person or persons to whom the administrative order is issued may within ten days of issuance petition the department for a hearing. A petition for hearing shall be deemed filed on the date the department receives such petition, or when mailed by first class mail, proper postage attached, properly addressed directly to the department, whichever date first occurs. The petitioner shall simultaneously serve a copy of such petition by certified mail, overnight mail, or personal service upon the Attorney General. If the person timely petitions the department for a hearing, the administrative order shall be stayed pending any administrative hearing until a final decision is rendered by the Commissioner. The administrative hearing shall be the forum in which the licensee may demonstrate that at the time of any alleged violation the licensee was in full compliance with the law;
- (2)** If the Commissioner has reasonable cause to believe that an act, practice, or transaction is occurring or is about to occur, and that such act, practice, or transaction would constitute an imminent peril to the public safety or welfare requiring emergency action, the Commissioner may issue an emergency order to be effective immediately. The emergency order shall contain findings to such effect and reasons for the determination, along with notice of right to a hearing. The person or persons to whom the emergency order is issued may within five days of issuance petition the department for a hearing on the administrative order. If such person timely petitions the department for a hearing, the administrative order shall be stayed pending any administrative hearing until a final decision is rendered by the Commissioner;
- (3)** Upon a timely request for hearing, the Commissioner shall schedule a hearing and appoint or designate a hearing officer to conduct the hearing for the taking of evidence and the issuance of a decision;
- (4)** Except where in conflict with the express provisions of this Code section and the reasonable implication of such provisions, the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," relating to contested cases shall be applicable to the actions of the Commissioner

O.C.G.A. § 2-10-60

taken pursuant to this Code section and to the conduct and judicial review of any hearings held as a result thereof;

(5) The Commissioner may institute actions or other legal proceedings in any superior court of proper venue as may be required for the enforcement of any law or regulation governing activities for which registration with or a license or permit from the department is required;

(6) The Commissioner may prosecute an action in any superior court of proper venue to enforce any order made by him or her pursuant to this Code section; and

(7) In cases in which the Commissioner institutes an action or other legal proceeding or prosecutes an action to enforce his or her order, the superior court may, among other appropriate relief, issue a temporary restraining order or a preliminary, interlocutory, or permanent injunction restraining or enjoining persons and those in active concert with them from engaging in any acts, practices, or transactions prohibited by orders of the Commissioner or any law or regulation governing activities for which registration with or a license or permit from the department is required. In any such action, it shall not be necessary for the Commissioner to allege or prove the absence of an adequate remedy at law.

History

Ga. L. 1959, p. 242, § 7; Ga. L. 1976, p. 678, § 2; Ga. L. 1980, p. 572, §§ 1, 2; Ga. L. 1981, p. 1354, § 12; Ga. L. 2000, p. 1589, § 3; Ga. L. 2004, p. 1066, § 3.

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O.C.G.A. § 2-10-61

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 2 Farmers' Markets (§§ 2-10-50 — 2-10-62)

2-10-61. Rules and regulations to continue in effect.

To the extent consistent with this article, the Georgia Department of Agriculture Rules and Regulations for State Farmers' Markets, Chapters 40-9-1 through 40-9-11 of the Secretary of State's Official Compilation of Rules and Regulations for the State of Georgia, adopted or promulgated by the Commissioner of Agriculture pursuant to an Act approved February 25, 1935 (Ga. L. 1935, p. 369), as amended, shall continue in force and effect as rules and regulations pursuant to this article. This article shall be considered as legal authority for those rules and regulations, and any reference in those rules and regulations shall be interpreted and read as a reference to this article. Those rules and regulations shall not be considered insufficient or defective for reason of reference to or stated reliance upon Ga. L. 1935, p. 369, as amended, instead of this article.

History

Ga. L. 1981, p. 1354, § 13.

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O.C.G.A. § 2-10-62

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 2 Farmers' Markets (§§ 2-10-50 — 2-10-62)

2-10-62. Prohibited acts; penalty.

- (a) It shall be unlawful for any person on a farmers' market to:
- (1) Engage in deceptive or dishonest trade practices;
 - (2) Do any act or use any language insulting to another tenant or customer; intimidate a shopper into purchasing his or her products; attempt to fix the price of products of any other farmer, vendor, or merchant; or circulate false reports tending to upset or destroy the operation of the market;
 - (3) Use any profane, abusive, or discourteous language on the market;
 - (4) Break, deface, or destroy any part of a building upon the market; interfere with electrical fixtures or wiring; or do any act tending to destroy the physical properties of the market;
 - (5) Move any cull agricultural products from any farmers' market for any purpose other than use as garbage or livestock feed or for dumping;
 - (6) Sell, offer, or expose for sale any products not meeting the requirements of the laws of this state relating to weights and measures;
 - (7) Use any false pack;
 - (8) Sublet any stall or space without the express written approval of the Commissioner;
 - (9) Fail or refuse to remove any vehicle or property upon direction of the farmers' market manager;
 - (10) Erect any facility or structure upon a farmers' market without the express written approval of the Commissioner; or
 - (11) Sell or offer for sale any items at a farmers' market without the license required by subsection (a) of Code Section 2-10-59, if applicable.
- (b) Any person who violates any provision of this Code section shall be guilty of a misdemeanor.

History

Ga. L. 1981, p. 1354, § 14; Ga. L. 2004, p. 1066, § 4.

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O.C.G.A. Title 2, Ch. 10, Art. 3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

Article 3 Cooperative Marketing Associations

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O.C.G.A. § 2-10-80

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-80. Short title.

This article may be cited as the “Cooperative Marketing Act.”

History

Ga. L. 1921, p. 139, § 1; Code 1933, § 65-201.

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O.C.G.A. § 2-10-81

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-81. Definitions.

As used in this article, the term:

- (1) “Agricultural products” means:
 - (A) Any horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and farm products; and
 - (B) Any marine or aquatic animal species, including, but not limited to, shrimp, crabs, oysters, finfish, and clams.
- (2) “Association” means any corporation organized under this article.
- (3) “Members” means actual members of associations without capital stock and holders of common stock in associations organized with capital stock.
- (4) “Persons” means individuals, firms, partnerships, corporations, and associations.

History

Ga. L. 1921, p. 139, § 1; Code 1933, § 65-201; Ga. L. 1973, p. 835, § 1.

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O.C.G.A. § 2-10-82

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2-10-82. When associations deemed nonprofit.

Associations organized under this article shall be deemed to be nonprofit since they are not organized to make profits for themselves, as such, or for their members, as such, but only for their members as producers.

History

Ga. L. 1921, p. 139, § 1; Code 1933, § 65-201.

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O.C.G.A. § 2-10-83

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2-10-83. Persons who may form cooperative association.

Five or more persons engaged in the production of agricultural products may form a nonprofit, cooperative association, with or without capital stock, under this article.

History

Ga. L. 1921, p. 139, § 2; Code 1933, § 65-202.

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O.C.G.A. § 2-10-84

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2-10-84. Filing of articles of incorporation; contents; subscription; verification; further proceedings.

(a) Persons desiring to be incorporated under this article must prepare and file in the office of the Secretary of State articles of incorporation setting forth:

- (1)** The name of the association;
- (2)** The purpose for which it is formed;
- (3)** The place where its principal business will be transacted;
- (4)** The names and addresses of not less than five persons who are to serve as directors for the first term or until the election of their successors;
- (5)** If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and, if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules, provided that this provision of the charter shall not be altered, amended, or repealed except by the written consent or the vote of three-fourths of the members;
- (6)** If organized with capital stock, the amount of such stock, the number of shares into which it is divided, and the par value thereof; the capital stock may be divided into preferred and common stock; and if so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted, the number of shares of stock to which no preference is granted, and the nature and extent of the preference and privileges granted to each.

(b) In addition to the foregoing, the articles of incorporation may contain any provision consistent with law with respect to management; regulation; government; financing; indebtedness; membership; the establishment of voting districts and the election of delegates for representative purposes; and the issuance, retirement, and transfer of its stock, if formed with capital stock; any provisions relative to the way or manner in which it shall operate with respect to its members, officers, or directors; and any other provisions relating to its affairs, provided that nothing so set forth shall be construed as limiting any of the rights or powers otherwise given to such associations.

(c) The articles of incorporation must be subscribed by the incorporators and verified by one of them before an officer authorized by the law of this state to attest deeds and conveyances. The petition shall be filed and further proceedings shall be had in accordance with the general corporation laws for the incorporation of private companies by the Secretary of State as set forth in Title 14.

History

O.C.G.A. § 2-10-84

Ga. L. 1921, p. 139, § 6; Ga. L. 1924, p. 83, § 1; Code 1933, § 65-203; Ga. L. 1937, p. 473, § 1; Ga. L. 1943, p. 343, § 1; Ga. L. 1980, p. 635, § 1.

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2-10-85. Amendment of charter.

Amendments of the charter may be authorized at any regular meeting of the stockholders or members or at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and then adopted by a vote representing a majority of a quorum of the members attending a meeting, for which notice of the proposed amendment shall have been given. Amendments to the charter, when so adopted, shall be applied for and secured in accordance with the provisions of the general corporation laws for the amendment of charters of corporations incorporated by the Secretary of State, as provided in Title 14.

History

Ga. L. 1921, p. 139, § 7; Code 1933, § 65-204; Ga. L. 1980, p. 635, § 2.

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2-10-86. Adoption of bylaws; authorized provisions.

- (a) Each association incorporated under this article, within 30 days after its incorporation, shall adopt for its government and management a code of bylaws not inconsistent with the powers granted by this article. A majority vote of a quorum of the members or stockholders attending a meeting shall be sufficient to adopt or amend the bylaws when notice of the proposed bylaw or bylaws is given prior to the meeting.
- (b) Under its bylaws each association may provide for any or all of the following matters:
- (1) The time, place, and manner of calling and conducting its meetings;
 - (2) The number of stockholders or members constituting a quorum;
 - (3) The right of members or stockholders to vote by proxy, by mail, or by both and the conditions, manner, form, and effects of such votes;
 - (4) The number of directors constituting a quorum;
 - (5) The qualifications, compensation, duties, and term of office of directors and officers; the time of their election; and the mode and manner of giving notice thereof;
 - (6) Penalties for violations of bylaws;
 - (7) The amount of entrance, organization, and membership fees, if any; the manner and method of collecting the same; and the purposes for which they may be used;
 - (8) The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him or her and the time of payment and manner of collection thereof; and the marketing contract between the association and its members or stockholders, which every member or stockholder may be required to sign;
 - (9) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock;
 - (10) The method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock and the manner of assignment and transfer of the interests of members and of the shares of common stock;
 - (11) The conditions upon which and time when the membership of any member shall cease; the automatic suspension of the rights of a member when he or she ceases to be eligible for membership in the association; and the mode, manner, and effect of the expulsion of a member; and
 - (12) The manner of determining the value of a member's property interest in the association and provision for its purchase by the association upon the death or withdrawal of a member or stockholder or upon the expulsion of a member or forfeiture of his or her membership, provided that, at the option of the association, such value may be determined by conclusive appraisal by the board of directors.

History

Ga. L. 1921, p. 139, § 8; Code 1933, § 65-207; Ga. L. 1937, p. 473, § 3; Ga. L. 1995, p. 413, § 1.

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2-10-87. Directors to manage association; number; election or appointment; compensation; marketing or purchasing contracts with association; vacancies.

- (a) The affairs of the association shall be managed by a board of not less than five directors elected by the members or stockholders from their own number.
- (b) The bylaws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts. In such a case the bylaws shall specify the number of directors to be elected by each district and the manner and method of reapportioning the directors and redistricting the territory covered by the association. The bylaws may provide that primary elections shall be held in each district to elect the directors apportioned to such districts and whether the results of all such elections shall be final or shall be ratified by the next regular meeting of the association.
- (c) The bylaws may provide that one or more directors may be appointed by the Commissioner, the dean of the College of Agricultural and Environmental Sciences of the University of Georgia, or any other public official or commission. The director or directors so appointed need not be members or stockholders of the association but shall have the same powers and rights as other directors.
- (d) An association may provide a fair remuneration to its officers and directors for their services to the association.
- (e) No director, during the term of his or her office, shall be a party to a marketing or purchasing contract with the association the provisions of which differ in any way from the marketing or purchasing contracts generally accorded regular members or holders of common stock of the association in the same trade area, or to any other kind of contract that affects the amount of the association's patronage distributions to the director the terms of which differ from terms generally current in that district.
- (f) When a vacancy on the board of directors occurs other than by expiration of term, the remaining members of the board shall fill the vacancy by a majority vote. If the bylaws provide for an election of directors by district, the person filling the vacancy must live in the district for which the vacancy exists.

History

Ga. L. 1921, p. 139, § 10; Code 1933, § 65-208; Ga. L. 1995, p. 10, § 2; Ga. L. 1995, p. 413, § 2.

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2-10-88. Election of officers.

(a) The directors shall elect from their number a president and one or more vice-presidents. They shall also elect a secretary and a treasurer, who need not be directors. They may combine the two latter offices and designate the combined office as secretary-treasurer. The treasurer may be a bank or any depository and, as such, it shall not be considered as an officer but as a function of the board of directors. In such case the secretary shall perform the usual accounting duties of the treasurer, provided that funds shall be deposited only as authorized by the board of directors.

(b) The charter of the association may provide for the election of its officers by the members of the association and from persons other than the directors thereof. Any provision of the nature referred to in the preceding sentence contained in the charter of an association or an amendment thereto as of March 30, 1965, is ratified and confirmed as though placed therein subsequent to March 30, 1965.

History

Ga. L. 1921, p. 139, § 11; Code 1933, § 65-209; Ga. L. 1965, p. 395, §§ 1, 2; Ga. L. 1982, p. 3, § 2.

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2-10-89. Removal of officers or directors.

(a) Any member may bring charges against an officer or director by filing such charges in writing with the secretary of the association together with a petition signed by 10 percent of the members requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association. By a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. Prior to the meeting, the director or officer against whom charges have been brought shall be informed in writing of the charges. He shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses and the person or persons bringing the charges against him shall have the same opportunity.

(b) When the bylaws provide for election of directors by districts with primary elections in each district, the petition for removal of a director shall be signed by 20 percent of the members residing in the district from which he was elected. The board of directors shall call a special meeting of the members residing in that district to consider the removal of the director. By a vote of the majority of the members of that district, the director in question shall be removed from office.

History

Ga. L. 1921, p. 139, § 13; Code 1933, § 65-210.

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2-10-90. Eligibility as members or stockholders.

Under the terms and conditions prescribed in its bylaws, an association may admit as members or issue common stock only to persons, associations, or corporations composed solely of persons engaged in the production of the agricultural products to be handled by or through the association, including the lessees and tenants of land used for the production of such products and any lessors and landlords who receive as rent all or part of the crop raised on the leased premises. Any such persons, associations of persons, or corporations may be citizens of or organized under the laws of this state or any other state of the United States. If a member of a nonstock association is other than a natural person, such member may be represented by any individual, associate, officer, or member thereof duly authorized in writing.

History

Ga. L. 1921, p. 139, § 5; Ga. L. 1925, p. 150, § 1; Ga. L. 1929, p. 222, § 2; Code 1933, § 65-205.

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2-10-91. Issuance of stock or certificate; liability of member; maximum amount of stock member may own; voting; preferred stock; transfer of stock; purchase of own stock by association.

- (a) When a member of an association established without capital stock has paid his membership fee in full, he shall receive a certificate of membership. No association shall issue stock to a member until it has been fully paid for. Promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but such retention as security shall not affect the member's right to vote.
- (b) Except for debts lawfully contracted between the member and the association, no member shall be liable for the debts of the association in an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance or any promissory notes given in payment thereof.
- (c) No stockholder of a cooperative association shall own more than 20 percent of the common stock of the association; and an association, in its bylaws, may limit the amount of common stock which one member may own to any amount less than 20 percent of the common stock.
- (d) No member or stockholder shall be entitled to more than one vote; provided, however, that this prohibition shall not apply to associations composed of producers of any forestry product or products.
- (e) Any association organized with stock under this article may issue preferred stock with or without the right to vote. Such stock may be redeemable or retirable by the association on such terms and conditions as may be provided for by the articles of incorporation and printed on the face of the certificate.
- (f) The association may, at any time, except when its debts exceed 50 percent of its assets, buy in or purchase its common stock at the book value thereof and pay for it in cash within one year thereafter. Book value shall be conclusively determined by the board of directors.

History

Ga. L. 1921, p. 139, § 12; Code 1933, § 65-206; Ga. L. 1943, p. 343, § 2.

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2-10-92. Regular meetings; special meetings generally; notice.

- (a) In its bylaws each association shall provide for one or more regular meetings annually.
- (b) The board of directors shall have the right to call a special meeting at any time.
- (c) Ten percent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. Such meeting shall thereupon be called by the directors.
- (d) Notice of all meetings, together with a statement of the purpose thereof, shall be mailed to each member at least ten days prior to the meeting, provided that the bylaws may require instead that such notice shall be given by publication in a newspaper of general circulation published at the principal place of business of the association.

History

Ga. L. 1921, p. 139, § 9; Code 1933, § 65-211.

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2-10-93. Referral of matters to entire membership; special meetings.

Upon demand of one-third of the entire board of directors, any matter that has been approved or passed by the board shall be referred to the entire membership or the stockholders for decision at the next special or regular meeting, provided that a special meeting may be called for the purpose.

History

Ga. L. 1921, p. 139, § 14; Code 1933, § 65-212.

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2-10-94. Powers of associations generally.

Each association incorporated under this article shall have the following powers:

- (1) To engage in any activity in connection with:
 - (A) The marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling, shipping, ginning, or utilizing of any agricultural products produced or delivered to it by its members or the manufacturing or marketing of the by-products thereof;
 - (B) The manufacturing, selling, and supplying to and the purchasing, hiring, or using by its members of supplies, machinery, or equipment;
 - (C) The terracing of lands or the prevention of soil erosion; and
 - (D) The financing of any of the activities enumerated in subparagraphs (A) through (C) of this paragraph;
- (2) To handle and deal in the agricultural products of nonmembers in an amount equal in value to, but not greater in value than, that handled by it for members;
- (3) To borrow money and to make advances to members;
- (4) To act as the agent or representative of any member or nonmembers in any of the activities mentioned in paragraphs (1) through (3) of this Code section;
- (5) To purchase or otherwise acquire, to hold, own, and exercise all rights of ownership in, and to sell, transfer, or pledge shares of the capital stock or bonds of any corporation or association engaged in any related activity, in the handling or marketing of any of the products handled by the association or in the financing of the association;
- (6) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the bylaws;
- (7) To buy, hold, and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association or as may be incidental thereto;
- (8) To apply for, establish, register, secure, own, and develop patents, trademarks, and copyrights;
- (9) To do everything necessary, suitable, or proper for the accomplishment of any of the purposes or the attainment of any of the objects enumerated in this Code section or conducive to or expedient for the interest or benefit of the association and to contract accordingly; and
- (10) To exercise and possess all powers, rights, and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged, along with any other rights, powers, and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with express provisions of this article.

History

Ga. L. 1921, p. 139, §§ 3, 4; Ga. L. 1929, p. 222, § 1; Code 1933, §§ 65-213, 65-214; Ga. L. 1937, p. 473, §§ 4, 5.

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O.C.G.A. § 2-10-95

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-95. Duration of associations.

Each association incorporated and organized after April 3, 1978, pursuant to this article shall have perpetual duration unless a limited period of duration is provided for and stated in its charter or articles of incorporation or in an amendment thereto. Each association incorporated and organized pursuant to this article which is in existence on April 3, 1978, shall have perpetual duration unless a limited period of duration is thereafter provided for and stated in an amendment to its charter or articles of incorporation.

History

Code 1933, § 65-213.1, enacted by Ga. L. 1978, p. 1422, § 1.

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O.C.G.A. § 2-10-96

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-96. Use of preferred stock to purchase property interest.

Whenever an association organized under this article with preferred capital stock desires to purchase the stock of any person, firm, corporation, or association or any property or property interest thereof, it may make the purchase, in whole or in part, by exchanging for the acquired interest shares of its preferred capital stock, in an amount which at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. The transfer to the association of the stock or interest so purchased shall be equivalent to payment in cash for the shares of stock issued.

History

Ga. L. 1921, p. 139, § 16; Code 1933, § 65-216.

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O.C.G.A. § 2-10-97

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-97. Transfer of common stock.

Common stock of cooperative associations organized under this article may only be transferred to other such associations and to individuals, firms, partnerships, and other associations and corporations engaged in the production of agricultural products. Such restrictions must be printed upon every certificate of common stock.

History

Ga. L. 1939, p. 350, § 2; Code 1933, § 65-228, enacted by Ga. L. 1973, p. 835, § 2.

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O.C.G.A. § 2-10-98

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-98. Joining with other nonprofit cooperative associations.

A cooperative association organized under this article may join with other such associations or with individuals, firms, partnerships, or other associations or corporations engaged in the production of agricultural products to form a nonprofit cooperative association, with or without capital stock, under this article and may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any association, with or without capital stock, or any other corporation engaged in any activity authorized by this article.

History

Ga. L. 1939, p. 350, § 1; Code 1933, § 65-227, enacted by Ga. L. 1973, p. 835, § 2.

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O.C.G.A. § 2-10-99

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-99. Ownership in, control of, or membership in other corporations; warehouse receipts.

An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other corporation or corporations, with or without capital stock, which are engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, ginning, utilizing, manufacturing, marketing, or selling the agricultural products or by-products handled by the association. If such corporations are warehousing corporations, they may issue legal warehouse receipts to the association or to any other person. Such legal warehouse receipts shall be considered to be adequate collateral to the extent of the current value of the commodity represented thereby. If such warehouse is licensed or licensed and bonded under the laws of this state or the United States, its warehouse receipts shall not be challenged or discriminated against because of ownership or control, whether complete or partial, by the association.

History

Ga. L. 1921, p. 139, § 20; Code 1933, § 65-217.

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O.C.G.A. § 2-10-100

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-100. Contracts and agreements between associations.

(a) Upon resolution adopted by its board of directors, any association may enter into all necessary and proper contracts and agreements and may make all necessary and proper stipulations, agreements, contracts, and arrangements with any other cooperative corporation, association, or associations formed in this or in any other state for the cooperative and more economical carrying on of its business or any part or parts thereof.

(b) Any two or more associations may by agreement unite in employing and using or may separately employ and use the same methods, means, and agencies for carrying on and conducting their respective businesses.

History

Ga. L. 1921, p. 139, § 21; Code 1933, § 65-218.

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O.C.G.A. § 2-10-101

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-101. Marketing contracts authorized; provisions; liquidated damages; injunctions and restraining orders; specific performance.

(a) The association and its members may make and execute marketing contracts requiring the members to sell, for any period of time not over ten years, all or any specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities to be created by the association. The contract may provide that the association may sell or resell the products of its members, with or without taking title thereto, and may pay over to its members the resale price, after deducting all necessary selling, overhead, and other costs and expenses, including (1) dividends on preferred stock and reserves for retiring the stock, if any; (2) other proper reserves; (3) dividends not exceeding 8 percent per annum upon common stock; and (4) other items deemed proper.

(b) The bylaws and the marketing contract may fix, as liquidated damages, specified sums to be paid by the member or stockholder to the association upon the breach by him of any provision of the marketing contract regarding the sale, delivery, or withholding of products and may provide that the member will pay all costs, premiums on bonds, expenses, and fees in case any action is brought upon the contract by the association. Any such provisions shall be valid and enforceable in the courts of this state.

(c) In the event of any breach or threatened breach of a marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree providing for the specific performance thereof. Pending the adjudication of such an action, upon the filing of a verified petition showing the breach or threatened breach and of a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

History

Ga. L. 1921, p. 139, § 15; Code 1933, § 65-215; Ga. L. 1980, p. 924, § 1.

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O.C.G.A. § 2-10-102

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > **TITLE 2 Agriculture (Chs. 1 — 23)** > **CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4)** > **Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)**

2-10-102. Activities in connection with agricultural products and furnishing farm business services generally.

A cooperative association organized under this article may engage in activities in connection with the production of agricultural products and in furnishing farm business services to its members.

History

Ga. L. 1939, p. 350, § 3; Code 1933, § 65-229, enacted by Ga. L. 1973, p. 835, § 2.

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O.C.G.A. § 2-10-103

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-103. Engaging in business for nonmembers.

During any fiscal year, a cooperative association organized under this article may handle agricultural products of and engage in other business for nonmembers in value equal to but not greater than that for members.

History

Ga. L. 1939, p. 350, § 4; Code 1933, § 65-230, enacted by Ga. L. 1973, p. 835, § 2.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-103.1. Power to acquire debt or equity of, create or own, and control and manage business entities.

A cooperative association organized under this article shall have the powers from time to time (1) to acquire part or all of the debt or equity or both of any corporations, partnerships, or other legal entities engaged in any agricultural or other businesses, (2) to join with others to create or to own all or part of any such entities, and (3) to control and manage such entities. The business of any such entities shall not be considered to be the business of the cooperative association for purposes of Code Section 2-10-94, Code Section 2-10-103, or any other Code section of this article.

History

Code 1981, § 2-10-103.1, enacted by Ga. L. 1995, p. 413, § 3.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-104. Annual reports.

Each association formed under this article shall prepare an annual report, on forms furnished by the Secretary of State, indicating the name of the association, its principal place of business, and a general statement of its business operations during the fiscal year. If the association is a stock association, the report shall show the amount of capital stock paid up and the number of stockholders. If the association is a nonstock association, the report shall show the number of members and the amount of membership fees received. The report shall also show the total expenses of operation, the amount of indebtedness or liability, and the balance sheets of the association.

History

Ga. L. 1921, p. 139, § 17; Code 1933, § 65-221.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-105. License fee; tax exemption.

Each association organized under this article shall pay an annual license fee of \$10.00 but shall be exempt from all franchise or license taxes.

History

Ga. L. 1921, p. 139, § 26; Code 1933, § 65-225.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-106. Distribution of excess income, reserves, or surpluses.

Net income of a cooperative association organized under this article, in excess of additions to reserves, surpluses, and other authorized deductions, may be distributed to members and to nonmember patrons on the basis of patronage. Any distribution of reserves or surpluses at any time shall be made to members at the time distribution is ordered and to other persons entitled thereto on the basis of patronage.

History

Ga. L. 1939, p. 350, § 5; Code 1933, § 65-231, enacted by Ga. L. 1973, p. 835, § 2.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-107. Associations not deemed monopolistic or in restraint of trade.

No association organized under this article shall be deemed to be a combination in restraint of trade, an illegal monopoly, or an attempt to lessen competition or fix prices arbitrarily; nor shall the marketing contracts or agreements between the association and its members or any agreement authorized in this article be considered illegal or in restraint of trade.

History

Ga. L. 1921, p. 139, § 23; Code 1933, § 65-220.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-108. Applicability of nonprofit corporation laws.

The general corporation laws of this state applicable to nonprofit corporations, as amended from time to time, and all powers and rights thereunder shall apply to the associations organized under this article, except where such laws are in conflict or inconsistent with the express provisions of this article.

History

Ga. L. 1921, p. 139, § 25; Code 1933, § 65-222; Ga. L. 1995, p. 413, § 4.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-109. Applicability of other laws.

No provisions of law which are in conflict with this article shall be construed as applying to the associations provided for in this article.

History

Ga. L. 1921, p. 139, § 18; Code 1933, § 65-223.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-110. Procedure by which other corporations and associations may come under article.

Any corporation or association organized under any statute of this or any other state, by majority vote of its stockholders or members, may be brought under this article by limiting its membership to the classes mentioned in this article, by adopting the other restrictions provided in this article, and by filing articles of incorporation with the Secretary of State, if it has not done so already, and otherwise complying with the general corporation laws for the incorporation of private companies as set forth in Title 14. Such corporations shall be entitled to all the privileges and immunities and shall be subject to all the restrictions contained in this article.

History

Ga. L. 1921, p. 139, § 22; Ga. L. 1925, p. 150, § 2; Code 1933, § 65-219.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 3 Cooperative Marketing Associations (§§ 2-10-80 — 2-10-111)

2-10-111. Use of word “cooperative” in business name.

No person, firm, corporation, or association organized or doing business in this state as a cooperative association to market agricultural products shall be entitled to use the word “cooperative” as part of its corporate or other business name or title unless it has complied with this article or Ga. L. 1920, p. 125, Sections 1 through 13.

History

Ga. L. 1921, p. 139, § 19; Code 1933, § 65-224.

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O.C.G.A. § 2-10-130

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 10 Marketing Facilities, Organizations, and Programs (Arts. 1 — 4) > Article 4 Roadside Markets Incentive Program (§§ 2-10-130 — 2-10-140)

2-10-130 through 2-10-140.

History

Ga. L. 1967, p. 476, § 1-11; repealed by Ga. L. 2013, p. 670, § 1/SB 87, effective July 1, 2013.

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O.C.G.A. Title 2, Ch. 11

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4)

CHAPTER 11 Seeds and Plants

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O.C.G.A. Title 2, Ch. 11, Art. 1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 1 General Provisions (§§ 2-11-1 — 2-11-2)

Article 1 General Provisions

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O.C.G.A. § 2-11-1

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 1 General Provisions (§§ 2-11-1 — 2-11-2)

2-11-1. Misrepresentation of count or variety of agricultural plants.

As used in this Code section, the term “plant” includes tobacco, tomato, cabbage, onion, pepper, and other agricultural plants. Any person who knowingly misrepresents the count or variety of any such plant shall be guilty of a misdemeanor.

History

Ga. L. 1958, p. 220, § 1.

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O.C.G.A. § 2-11-2

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 1 General Provisions (§§ 2-11-1 — 2-11-2)

2-11-2. Fraudulent sale of nursery stock or seedlings; misrepresenting fruit or nut trees.

(a) Any person who deceives or defrauds any person in the sale of nursery stock by substituting stock other than that contracted for or different varieties of seedlings than those represented or contracted for or who falsely represents the name, class, description, or condition of any nursery stock or who makes any false statement or promise for the purpose of making a sale of nursery stock shall be guilty of a misdemeanor.

(b) Any person, acting either as principal or agent, who sells any fruit or nut trees representing the same to be of a certain kind, variety, or description and thereafter delivers to the purchaser, in filling such order and completing such sale, any fruit or nut trees of a different kind, variety, or description shall be guilty of a misdemeanor.

History

Ga. L. 1960, p. 255, §§ 2, 3.

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O.C.G.A. § 2-11-20

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-20. Short title.

This article may be cited as the “Georgia Seed Law.”

History

Ga. L. 1941, p. 497, § 10; Ga. L. 1956, p. 217, § 1; Ga. L. 1996, p. 1151, § 1.

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O.C.G.A. § 2-11-21

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-21. Definitions.

As used in this article, the term:

- (1) “Advertisement” means all representations, other than those on the label, disseminated in any manner or by any means, relating to any seed within the scope of this article.
- (2) “Agricultural seed” means the seeds of grass, forage, cereal, oil, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural seed, lawn seed, and mixtures of such seeds and may include noxious weed seed when the Commissioner of Agriculture determines that such seed is being used as agricultural seed.
- (3) “Bulk” means a volume of seed in a container larger than a typical individual packaging unit for that kind, e.g., bulk bags and boxes, bins, trucks, rail cars, or barges.
- (4) “Coated or encrusted seed” means seed that has been covered by a layer or layers of materials that obscure the original shape and size of the seed resulting in a substantial weight increase. The addition of biologicals, pesticides, identifying colorants, dyes, polymers, and other ingredients can be included in this process.
- (5) “Dormant seed” means viable seed, excluding hard seed, that fail to germinate when provided the specified germination conditions for the kind of seed in question.
- (6) “Flower seed” means the seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and commonly known and sold under the name of flower seeds in this state.
- (7) “Germination” means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.
- (8) “Hard seed” means seed that remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat.
- (9) “Hybrid” means the first generation of a cross produced by controlling the pollination and by combining: (A) two or more inbred lines; (B) one inbred or a single cross with another single cross or with an open-pollinated variety; or (C) two varieties or species, except open-pollinated varieties of corn (*Zea mays*) and other open-pollinated crop kinds. The second generation or subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names and hybrids shall be labeled as hybrids.
- (10) “Inert matter” means all matter that is not seed, which includes but is not limited to broken seeds, sterile florets, chaff, fungus bodies, and stones as determined by methods defined by rule. The percent inert matter shall not exceed 3 percent for hybrid field corn, nor 4 percent inert matter for other agricultural crop seed, except as established by rule for special crops. Inert matter will not include coating or pelleting material, fertilizer, or mulch, for which there are no limitations.
- (11) “Inoculated seed” means seed that has received a coating of a preparation containing a microbial product, e.g., *Rhizobium* sp.

O.C.G.A. § 2-11-21

(12) “Kind” means one or more related species or subspecies which singly or collectively are known by one common name, as, for example, corn, oats, alfalfa, and cotton.

(13) “Labeling” means a tag or other written, printed, or graphic representations on any container or accompanying any lot of bulk seeds, including such representations as those on invoices, purporting to set forth the information required on the seed label by this article.

(14) “Lawn and turf” pertains to seeds of the grass family (Poaceae) that are used within the industry for lawn and turf applications.

(15) “Lot” means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which are required to appear in the labeling.

(16) “Mixture,” “mix,” or “mixed” means seed consisting of more than one kind or variety or both, each in excess of 5 percent by weight of the whole.

(17) “Noxious weed seeds” include “prohibited noxious weed seeds” and “restricted noxious weed seeds,” as defined in subparagraphs (A) and (B) of this paragraph, provided that the Commissioner of Agriculture may, through the promulgation of regulations, establish a list of seeds included under subparagraphs (A) and (B), whenever the Commissioner finds that such seeds conform to the respective definitions.

(A) “Prohibited noxious weed seeds” are those weed seeds that are prohibited from being present in agricultural, vegetable, flower, tree, or shrub seed. They are the seed of weeds that are highly destructive and difficult to control by good cultural practices and the use of herbicides.

(B) “Restricted noxious weed seeds” are those weed seeds that are very objectionable in fields, lawns, and gardens of this state but can be controlled by good cultural practice.

(18) “Other crop seed” means seed of plants grown as crops (other than the kind or variety included in the pure seed) as determined by methods defined by rule.

(19) “Pelleted seed” means coated or encrusted seed that also improves the plantability or singulation of the seed.

(20) “Person” means an individual, partnership, corporation, company, association, receiver, trustee, or agent.

(21) “Private hearing” means a discussion of facts between the person charged with a violation and representatives of the Georgia Department of Agriculture.

(22) “Pure seed” means all seeds of each kind and variety under consideration that are present in excess of 5 percent of the whole. Kinds or varieties shown on a label as components of a mixture in amounts 5 percent or less of the whole may be considered pure seed when shown on a label as components of a mixture.

(23) “Record” means all information relating to the lot, identification, source, origin, variety, amount, processing, blending, testing, labeling, and distribution of the seed and includes a file sample thereof.

(24) “Seed” means the true seeds of all field crops, vegetables, flowers, trees, and shrubs, and any naturally occurring vegetative propagule, excluding plant parts of hybrids.

(25) “Seizure” means a legal process carried out by court order against a definite amount of seed.

(26) “Stop sale” means an administrative order provided by law restraining the sale, use, disposition, and movement of a definite amount of seed.

(27) “Treated” means seed that has received a minimal covering according to the manufacturer’s recommended rate of a substance or process which is designed to reduce or control certain disease organisms, insects, or other pests attacking such seed or seedlings growing therefrom and the covering substance may contain identifying colorants and dyes.

(28) “Tree and shrub seeds” means seeds of woody plants commonly known and sold as tree or shrub seeds in this state.

(29) “Variety” means a subdivision of a kind that is distinct, uniform, and stable; “distinct” in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; “uniform” in the sense that the variations in essential and distinctive characteristics are describable; and “stable” in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted.

(30) “Vegetable seeds” means the seeds of those crops which are grown in gardens and on farms and are generally known and sold under the name of vegetable or herb seeds in this state.

(31) “Weed seeds” means the seeds of all plants generally recognized as weeds within this state, and determined by methods defined by rule, and includes the prohibited and restricted noxious weed seeds.

History

Ga. L. 1941, p. 497, § 1; Ga. L. 1956, p. 217, § 2; Ga. L. 1996, p. 1151, § 1; Ga. L. 1998, p. 128, § 2.

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O.C.G.A. § 2-11-22

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-22. Labeling requirements.

(a) Labeling required. Each bag, container, package, or bulk of seeds which is sold, offered for sale, exposed for sale, or transported within this state for planting purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the information specified in subsections (b) through (j) of this Code section, which statement shall not be modified or denied in the labeling or on another label attached to the container. The labeler is responsible to assure that the required labeling is applied to each container or, in the case of bulk seed, that required labeling is shown on the invoice. All invoices and records pertaining to the shipment or sale of seed must show each lot number.

(b) Treated seeds. For all treated seeds, as defined in this article, for which a separate label may be used, the following information shall be given:

- (1) A word or statement that the seed has been treated;
- (2) The commonly accepted, coined, chemical, or abbreviated chemical (generic) name of the applied substance and the rate of application;
- (3) If the level of treatment exceeds the established tolerance or is not subject to an exemption to a tolerance, a caution statement, such as “Do not use for food or feed or oil purposes.” The caution for mercurials and similarly toxic substances shall be a poison statement or symbol and the label shall carry the words “poison treated”; and
- (4) If the seed is treated with an inoculant, the label must state the inoculant manufacturer’s lot number and expiration date as listed on the inoculant’s original package.

(c) Agricultural seed. For agricultural seed the following information shall be given except for grass seed mixtures as provided in subsection (d) of this Code section; and for hybrids that contain less than 95 percent hybrid seed as provided in subsection (j) of this Code section:

- (1) The commonly accepted name of kind and variety of each agricultural seed component in excess of 5 percent of the whole and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word “mixture” or the word “mixed” shall be shown conspicuously on the label, provided that the Commissioner may, through the promulgation of regulations, allow certain kinds of seed to be labeled “mixed” without showing the percentage of each variety present;
- (2) The net weight;
- (3) The lot number or other lot identification;
- (4) The origin (state or foreign country);
- (5) The percentage by weight of all weed seeds;
- (6) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present;
- (7) The percentage by weight of crop seeds other than those required to be named on the label;

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- (8) The percentage by weight of inert matter;
- (9) For each named agricultural seed:
- (A) The percentage of germination, exclusive of hard seed or dormant seed;
 - (B) The percentage of hard seed or dormant seed, if present; and
 - (C) The calendar month and year the test was completed to determine such percentage;
- following the information given pursuant to subparagraphs (A) and (B) of this paragraph, the “total germination and hard seed” or “total germination and dormant seed” may be stated as such, if desired; and
- (10) The name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state.
- (d) For seed mixtures for lawn or turf purposes or both lawn and turf purposes the following information shall be given:
- (1) The word “mixed” or “mixture” shall be stated with the name of the mixture;
 - (2) The headings “pure seed” and “germination” or “germ” shall be used in the proper places;
 - (3) The net weight;
 - (4) The lot number or other lot identification;
 - (5) Commonly accepted name of kind, variety, and origin of each agricultural seed component in excess of 5 percent of the whole and the percentage by weight of pure seed in order of its predominance and in columnar form;
 - (6) Percentage by weight of agricultural seed other than those required to be named on the label (which shall be designated as “crop seed”);
 - (7) The percentage by weight of inert matter;
 - (8) Percentage by weight of all weed seeds;
 - (9) Noxious weeds that are required to be labeled will be listed under the heading “noxious weed seeds”;
 - (10) For each agricultural seed named under paragraph (5) of this subsection;
 - (A) Percentage of germination, exclusive of dormant seed;
 - (B) Percentage of dormant seed, if present; and
 - (C) The calendar month and year the test was completed to determine such percentages. The test date for each component may be labeled or, if each component does not show a test date, the oldest test date shall be used for the mixture; and
 - (11) Name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within the state.
- (e) For agricultural seeds that are coated or pelleted:
- (1) Percentage by weight of pure seed with coating or pelleting material removed;
 - (2) Percentage by weight of coating or pelleting material;
 - (3) Percentage by weight of inert material exclusive of coating or pelleting material;
 - (4) Percentage of germination is to be determined on 400 pellets with or without seeds;
 - (5) In addition to the provisions of paragraphs (1) through (4) of this subsection, labeling of coated or pelleted seed shall comply with the requirements of this Code section for the specific seed kind.

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(f) For vegetable seeds in containers of one pound or less or preplanted containers, mats, tapes, or other planting devices, the following information shall be given:

- (1)** The name of kind and variety of seed;
- (2)** The lot number or other lot identification;
- (3)** The year for which the seed was packed for sale as “Packed for _____” or the percent germination and the calendar month and year the test was completed to determine such percentage;
- (4)** For seed which germinate less than the standard last established by the Commissioner under this article:
 - (A)** The percentage of germination, exclusive of hard seed or dormant seed;
 - (B)** The percentage of hard seed or dormant seed, if present;
 - (C)** The calendar month and year the test was completed to determine such percentage; and
 - (D)** For seed that germinate less than the standard last established by the Commissioner, the words “below standard” in not less than eight-point type must be printed or written with permanence on the face of the label, in addition to the other information required, provided that no seed marked “below standard” shall be sold if it falls more than 20 percent below the established standard for such seed;
- (5)** The name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state; and
- (6)** For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

(g) Vegetable seeds in containers of more than one pound.

- (1)** For vegetable seeds in containers of more than one pound, the following information shall be given:
 - (A)** The name of each kind and variety present in excess of 5 percent and the percentage by weight of each in order of its predominance;
 - (B)** The net weight or seed count;
 - (C)** The lot number or other lot identification;
 - (D)** For each named vegetable seed:
 - (i)** The percentage of germination, exclusive of hard seed or dormant seed;
 - (ii)** The percentage of hard seed or dormant seed, if present; and
 - (iii)** The calendar month and year the test was completed to determine such percentages; following the information given pursuant to such divisions (i) and (ii) of this subparagraph, the “total germination and hard seed” or the “total germination and dormant seed” may be stated as such, if desired; and
 - (E)** The name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state.
- (2)** The labeling requirements for vegetable seeds in containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

(h) For flower seed in packets prepared for use in home gardens or household plantings or flower seed in preplanted containers, mats, tapes, or other planting devices, the following information shall be given:

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- (1)** For all kinds of flower seeds:
 - (A)** The name of the kind and variety or a statement of type and performance characteristics as prescribed in the rules promulgated under this article;
 - (B)** The calendar month and year the seed was tested or the year for which the seed was packaged;
 - (C)** The lot number or other lot identification;
 - (D)** The net weight or seed count; and
 - (E)** The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state;
- (2)** For flower seed kinds for which standard testing procedures are prescribed and that germinate less than the germination standard last established by rule under this article:
 - (A)** Percentage of germination, exclusive of hard seed or dormant seed;
 - (B)** Percentage of hard seed or dormant seed, if present; and
 - (C)** The words "below standard" in not less than eight-point type; and
- (3)** For flower seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seed from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.
- (i)** For flower seed in containers other than packets and other than preplanted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings, the following information shall be given:
 - (1)** The name of the kind and variety or a statement of type and performance characteristics as prescribed in the rules promulgated under this article and for wildflowers the genus and species and, if appropriate, the subspecies;
 - (2)** The lot number or other lot identification;
 - (3)** The net weight or seed count;
 - (4)** For wildflower seed only with a pure seed percentage of less than 90 percent:
 - (A)** The percentage, by weight, of each component listed in order of their predominance;
 - (B)** The percentage by weight of weed seed if present; and
 - (C)** The percentage by weight of inert matter;
 - (5)** For those seed kinds for which standard testing procedures are prescribed:
 - (A)** Percentage of germination, exclusive of hard seed or dormant seed;
 - (B)** Percentage of hard seed or dormant seed, if present;
 - (C)** The calendar month and year that the seed was tested or the year for which the seed was packaged; and
 - (D)** For flower seed kinds that germinate less than the germination standard last established by rule under this article, the words "below standard" in not less than eight-point type;
 - (6)** For those kinds of seed for which standard testing procedures are not available, the year of production or collection; and
 - (7)** The name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state.
- (j)** For hybrid agricultural and vegetable seed, the following is required:

(1) If any one kind or kind and variety of seed present in excess of 5.0 percent is hybrid seed, it shall be designated hybrid on the label. The percentage that is hybrid shall be at least 95 percent of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds or varieties are present in excess of 5.0 percent and are named on the label, each that is hybrid shall be designated as hybrid on the label. Any one kind or kind and variety that has pure seed which is less than 95 percent but more than 90 percent hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show the percentage of pure seed that is hybrid seed. No kind or variety of seed shall be labeled as hybrid if the pure seed contains less than 90 percent hybrid seed;

(2) Hybrid wheat, hybrid millet, and other hybrids to be established by rule shall be labeled the same as all other hybrids except that if any one kind or kind and variety that has pure seed which is less than 95 percent but more than 75 percent hybrid seed as a result of incompletely controlled pollination shall be labeled to show the percentage of pure seed that is hybrid seed. No one kind or variety of seed shall be labeled as hybrid if the pure seed contains less than 75 percent hybrid seed. Any seed containing less than 95 percent hybrids must be labeled as a mixture; and

(3) In addition to the provisions of paragraph (1) of this subsection, labeling of hybrid agricultural and vegetable seed shall comply with the requirements of this Code section for the specific seed kind and, if appropriate, quantity.

History

Ga. L. 1941, p. 497, § 2; Ga. L. 1956, p. 217, § 3; Ga. L. 1982, p. 3, § 2; Ga. L. 1996, p. 1151, § 1; Ga. L. 1998, p. 128, § 2.

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O.C.G.A. § 2-11-23

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-23. Prohibited acts.

(a) No person shall sell, offer for sale, expose for sale, or transport for sale any agricultural, vegetable, flower, tree, or shrub seed within this state:

(1) Unless the test to determine the percentage of germination required in Code Section 2-11-22 shall have been completed within a nine-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, offering for sale, or transportation. This prohibition does not apply to agricultural or vegetable seed in hermetically sealed containers. Agricultural or vegetable seeds packaged in hermetically sealed containers under the conditions defined in rules and regulations promulgated under the provisions of this article may be sold, exposed for sale, or offered for sale or transportation for a period of 24 months after the last day of the month that the seeds were tested for germination prior to packaging. If seeds in hermetically sealed containers are sold, exposed for sale, or offered for sale or transportation more than 24 months after the last day of the month in which they were tested prior to packaging, they must have been retested within a nine-month period, exclusive of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation;

(2) Not labeled in accordance with this article or having false, misleading, or illegible labeling;

(3) Pertaining to which there has been a false or misleading advertisement;

(4) Consisting of or containing prohibited noxious weed seeds;

(5) Consisting of or containing restricted noxious weed seeds per pound in excess of the number prescribed by rules and regulations promulgated under this article or in excess of the number declared on the label attached to the container of the seed or associated with the seed;

(6) Represented to be “certified seed,” “registered seed,” or “foundation seed,” unless it has been produced and labeled in accordance with the procedures and in compliance with rules and regulations of a legally authorized seed certification agency; or

(7) Labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which a United States certificate of plant variety protection under the Plant Variety Protection Act (7 U.S.C. Section 2321, et seq.) specifies sale only as a class of certified seed, provided that seed from a certified seed lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety.

(b) It shall be unlawful for any person within this state:

(1) To detach, alter, deface, or destroy any label provided for in this article or the rules and regulations made and promulgated hereunder or to alter or substitute seed in a manner that may defeat the purpose of this article;

(2) To disseminate any false or misleading advertisements concerning seeds in any manner that may defeat the purpose of this article;

(3) To hinder or obstruct, in any way, any authorized person in the performance of his or her duties under this article;

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- (4) To fail to comply with a “stop sale” order or to move from the premises or dispose of any lot of seed or the tags attached thereto held under a “stop sale” order, except with express permission of the enforcing officer and for the purpose specified thereby;
- (5) To use the word “trace” as a substitute for any statement which is required;
- (6) To use the words “or better,” “more than,” “less than,” or similar words in connection with any information required on purity analyses;
- (7) To use the word “type” in any labeling in connection with the name of any agricultural seed variety;
or
- (8) To alter or falsify any seed label, seed test, laboratory report, record, or other document pertaining to seed dealings for the purpose of defrauding or misleading the purchaser or to create a misleading impression as to kind or variety, history, quality, or origin of seed.

History

Ga. L. 1941, p. 497, § 3; Ga. L. 1956, p. 217, § 4; Ga. L. 1996, p. 1151, § 1; Ga. L. 1998, p. 128, § 2.

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O.C.G.A. § 2-11-24

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-24. Records and samples to be kept; inspection thereof.

Each person whose name or approved A.M.S. code number or other approved designation appears on the label as handling seed subject to this article shall keep, for a period of two years, complete records of each lot of agricultural, vegetable, flower, tree, or shrub seed handled and shall keep, for one year, a file sample of each lot of seed after final disposition of such lot. All such records and samples pertaining to the shipment or shipments involved shall be accessible for inspection by the Commissioner or the Commissioner's agent during customary business hours.

History

Ga. L. 1956, p. 217, § 5; Ga. L. 1996, p. 1151, § 1.

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O.C.G.A. § 2-11-25

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2-11-25. Powers and duties of Commissioner — Generally.

The duty of enforcing this article and the carrying out of its provisions and requirements shall be vested in the Commissioner of Agriculture, who may act through his or her authorized agents. He shall have authority:

- (1) To sample, test, make analysis of, and inspect any seed transported, sold, or offered or exposed for sale within this state for planting purposes, at such time and place and to such extent as may be deemed necessary to determine whether such seed is in compliance with this article;
- (2) To enter upon any public or private premises during regular business hours in order to have access to seeds and the records connected therewith subject to this article and rules and regulations promulgated hereunder;
- (3) To issue and enforce a written or printed “stop sale” order to the person or vendor of any seed which is in violation or is believed to be in violation of any of the provisions of this article or rules and regulations promulgated hereunder;
- (4) To furnish adequate facilities for testing seed and to employ qualified persons for making such tests;
- (5) To publish in print or electronically or cause to be published the results of the examination, analysis, and testing of any agricultural or vegetable seed sampled in accordance with this article, together with any other information that the Commissioner may deem advisable;
- (6) To provide that any person in this state shall have the privilege of submitting seed samples for testing, subject to the charges made for samples submitted as prescribed in rules and regulations promulgated under this article; provided, however, that seed samples shall be tested without charge for farmers who do not have a seed license; and
- (7) To cooperate with the United States Department of Agriculture in the enforcement of the Federal Seed Act.

History

Ga. L. 1941, p. 497, § 5; Ga. L. 1956, p. 217, § 7; Ga. L. 1996, p. 1151, § 1; Ga. L. 2010, p. 838, § 10/SB 388.

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O.C.G.A. § 2-11-26

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2-11-26. Powers and duties of Commissioner — Licensing authority; penalties.

(a) For the purpose of carrying out this article, the Commissioner, who may act through his or her authorized agents, is authorized to issue a license to each retail and wholesale seed dealer, such license to be applied for by each seed dealer upon forms furnished for such purpose. A separate license shall be required for each point of sale, from which seed are sold, offered for sale, or exposed for sale. Out-of-state wholesale and retail seed dealers who sell or ship seed into this state shall obtain a license in the same manner. Such licenses shall be renewable in August of every third year following issuance. A fee in an amount fixed by rule or regulation of the Commissioner at not less than \$70.00 nor more than \$100.00 per annum shall be charged for such license. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(b) The Commissioner may enter an order imposing one or more of the following penalties against any person who violates any of the provisions of this chapter or the rules promulgated under this article or who impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the Commissioner or the Commissioner's agent in the performance of his or her duty in connection with the provisions of this article:

- (1) Issuance of a warning letter;
- (2) Imposition of an administrative fine not more than \$1,000.00 per occurrence, suspension of a license, or both; or
- (3) Revocation of the seed dealer's license.

Actions stated in paragraphs (2) and (3) of this subsection shall be preceded by a departmental hearing to consider evidence that the licensee has violated this article or any rule or regulation promulgated under this article.

(c) No person who has not complied with this Code section shall sell or offer for sale any seed within this state.

History

Ga. L. 1956, p. 217, §§ 7, 12; Ga. L. 1996, p. 1151, § 1; Ga. L. 2010, p. 9, § 1-7/HB 1055.

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2-11-27. [Reserved] Powers and duties of Commissioner — Treatment of itinerant vendors generally; bond.

History

Ga. L. 1956, p. 217, §§ 7, 12; repealed by Ga. L. 1996, p. 1151, § 1, effective July 1, 1997.

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2-11-28. Powers and duties of Commissioner — Rule-making authority.

The Commissioner shall have authority to promulgate and enforce such rules and regulations as the Commissioner may deem necessary to carry out or make effective this article. Such rules and regulations may:

- (1) Provide such additional definitions of terms as the Commissioner believes are needed;
- (2) Provide a noxious weed list and add to or subtract therefrom from time to time;
- (3) Prescribe minimum standards of germination and purity and maximum amounts of inert matter and weed seed;
- (4) Prescribe the maximum number of weed seeds per pound allowed for each type of restricted noxious weed;
- (5) Specify the methods of sampling, inspecting, analysis, testing, and examination of seed and the tolerance to be followed in the administration of this article, which shall be in general accord with the officially prescribed practice in interstate commerce;
- (6) Prescribe the form of tags or labels;
- (7) Fix the number of tests allowed to any one person, firm, corporation, etc.;
- (8) Fix charges for tests made;
- (9) Prescribe minimum standards for seed vigor when such standards have been developed and standardized by the Association of Official Seed Analysts (AOSA) and to require the results of any seed vigor test to be placed upon seed labels; and
- (10) Prescribe such other rules and regulations as may be necessary to secure the efficient enforcement of this article.

History

Ga. L. 1956, p. 217, § 9; Ga. L. 1996, p. 1151, § 1.

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2-11-29. [Reserved] Seed Advisory Committee created; selection of members; compensation; duties.

History

Ga. L. 1956, p. 217, § 10; Ga. L. 1972, p. 1015, § 12; Ga. L. 1988, p. 426, § 1; Ga. L. 1995, p. 10, § 2; repealed by Ga. L. 1996, p. 1151, § 1, effective July 1, 1997.

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O.C.G.A. § 2-11-30

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2-11-30. Seizure of seed for violation of article; disposition thereof.

Any seed sold, offered for sale, or exposed for sale in violation of this article or rules and regulations promulgated under this article shall be subject to seizure on the complaint of any authorized agent of the Commissioner to the superior court of the county where the seed is located. If the court finds the seed to be in violation of this article and orders its condemnation, the seed shall be destroyed, reprocessed, relabeled, or otherwise disposed of in compliance with the laws of this state and as directed by the court. In no instance shall the court order such disposition of seed without first having given the claimant an opportunity to apply to the court for the release of the seed or for permission to process or relabel it to bring it into compliance with this article.

History

Ga. L. 1941, p. 497, § 6; Ga. L. 1956, p. 217, § 8; Ga. L. 1996, p. 1151, § 1.

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O.C.G.A. § 2-11-31

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2-11-31. Injunctions.

The Commissioner is authorized to apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or rules and regulations promulgated under this article, notwithstanding the existence of other remedies at law. Such injunctions shall be issued without bond.

History

Ga. L. 1956, p. 217, § 8; Ga. L. 1996, p. 1151, § 1.

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O.C.G.A. § 2-11-32

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-32. Exemption from article.

No person or vendor shall be subject to the penalties of this article for having sold or offered or exposed for sale in this state any seed incorrectly labeled or represented as to variety or origin when the variety or origin of such seed could not be identified by examination thereof, unless he or she failed to obtain an invoice, grower's declaration, or other document indicating variety and origin and failed to take such other precautions as were necessary or required to ensure that the identity and variety of the seed were as stated.

History

Ga. L. 1941, p. 497, § 4; Ga. L. 1956, p. 217, § 6; Ga. L. 1996, p. 1151, § 1.

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O.C.G.A. § 2-11-33

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-33. Applicability of Code Sections 2-11-21 and 2-11-22.

Code Sections 2-11-21 and 2-11-22 shall not apply:

- (1) To seed sold by a farmer or grower to a seed dealer or conditioner or in storage in or consigned to a seed cleaning or conditioning establishment for cleaning or processing, provided that any labeling or other representation which may be made with respect to uncleaned seed shall be subject to this article;
- (2) To seed grown by a farmer or other person, who sells it as such, when it is sold at his or her own farm and he or she does not advertise or transfer it by any public carrier provided such activity is not in conflict with paragraph (7) of subsection (a) of Code Section 2-11-23 or requirements of the United States Plant Variety Protection Act;
- (3) To seed or grain not intended for planting purposes, provided that such seed or grain sold to a farmer or consumer which could be used for planting purposes shall be marked or tagged “for feed” or “not for planting”; and
- (4) To any carrier, in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier, if such carrier is not engaged in producing, processing, or marketing agricultural or vegetable seed which is subject to this article.

History

Ga. L. 1941, p. 497, § 4; Ga. L. 1956, p. 217, § 6; Ga. L. 1996, p. 1151, § 1.

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O.C.G.A. § 2-11-34

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-34. Penalty for violations of article or rules and regulations; Commissioner authorized to utilize warning for minor violations.

- (a) Any person or vendor violating any of the provisions of this article or rules and regulations promulgated under this article shall be guilty of a misdemeanor.
- (b) When the Commissioner or any of the Commissioner's authorized agents find that a person has violated any of the provisions of this article or rules and regulations promulgated under this article, the Commissioner may institute proceedings in the superior court of the county in which the violation occurred to have such person convicted therefor or may file with the prosecuting attorney, with the view of prosecution, such evidence as may be deemed necessary.
- (c) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted against the accused.
- (d) Nothing in this article shall be construed as requiring the Commissioner or any of the Commissioner's authorized agents to report, for prosecution or for the institution of seizure proceedings, minor violations of this article when the Commissioner believes that the public interest will best be served by a suitable notice of warning in writing.

History

Ga. L. 1941, p. 497, § 7; Ga. L. 1956, p. 217, § 11; Ga. L. 1996, p. 1151, § 1.

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O.C.G.A. § 2-11-35

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-35. Local regulation prohibited.

- (a) No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution regulating the labeling, packaging, sale, storage, transportation, distribution, notification of use, or use of seeds.
- (b) This Code section shall in no way prohibit or impair the legal right of any county, municipal corporation, consolidated government, or other political subdivision of this state to issue business licenses or to make zoning decisions.

History

Code 1981, § 2-11-35, enacted by Ga. L. 2005, p. 45, § 1/SB 87.

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O.C.G.A. § 2-11-36

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 2 Sale and Transportation of Seeds (§§ 2-11-20 — 2-11-36)

2-11-36. Seeds used in production of low THC oil.

This article shall not apply to seeds used for the production of low THC oil in accordance with Article 9 of Chapter 12 of Title 16 and no person shall be subject to regulation or penalties pursuant to this article for growing, selling, offering for sale, exposing for sale, or transporting in this state any seed used for the lawful production of low THC oil pursuant to Article 9 of Chapter 12 of Title 16.

History

Code 1981, § 2-11-36, enacted by Ga. L. 2019, p. 43, § 5/HB 324.

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O.C.G.A. Title 2, Ch. 11, Art. 3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 3 Certification of Seeds and Plants (§§ 2-11-50 — 2-11-53)

Article 3 Certification of Seeds and Plants

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O.C.G.A. § 2-11-50

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 3 Certification of Seeds and Plants (§§ 2-11-50 — 2-11-53)

2-11-50. Legislative intent.

The General Assembly declares that for the purpose of fostering improved agricultural methods, promoting advances in agricultural fields, and giving legal status to an existing practice and for the general welfare of the people it is necessary to establish as a policy of this state a method for protecting the public in the guarantee of the high quality of seeds and plants for various agricultural pursuits. It is the intent of the General Assembly to carry out that policy by this article, protecting the public from false claims and unwarranted statements as to genetic identity, varietal purity, and germinating viability of seeds and plants presented and claimed to be foundation, registered, or certified.

History

Ga. L. 1956, p. 16, § 2; Ga. L. 1996, p. 1151, § 2.

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O.C.G.A. § 2-11-51

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 3 Certification of Seeds and Plants (§§ 2-11-50 — 2-11-53)

2-11-51. Definitions.

For the purposes of this article, the term:

- (1) “Certified seed” means the progeny of foundation, registered, or in special cases certified seed which meets the standards of the official seed certifying agency.
- (2) “Foundation seed” means the progeny of breeder’s seed or in special cases the progeny of foundation seed which meets the standards of the official seed certifying agency.
- (3) “Plant” means seedlings, nursery stock, roots, tubers, bulbs, cuttings, and other parts used in the propagation of field crops, vegetables, fruits, flowers, trees, or other plants.
- (4) “Registered seed” means the progeny of foundation seed and meets the standards of the official seed certifying agency.
- (5) “Seed” means the true seeds of all field crops, vegetables, flowers, trees, or other plants.
- (6) “Variety” carries its original meaning and includes “strains” of varieties which are sufficiently different from the parent variety to justify special designation.

History

Ga. L. 1956, p. 16, § 1; Ga. L. 1996, p. 1151, § 2.

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O.C.G.A. § 2-11-52

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 3 Certification of Seeds and Plants (§§ 2-11-50 — 2-11-53)

2-11-52. Designation of agency for certification of seeds and plants; liability for damages resulting from certification work; immunity.

In order to execute the policy stated in Code Section 2-11-50, the dean of the College of Agricultural and Environmental Sciences of the University of Georgia is authorized to provide for seed, plant, and variety certification and labeling. The dean shall designate a certifying agency, provided that such designee must be in good standing with the Association of Official Seed Certifying Agencies. The College of Agricultural and Environmental Sciences of the University of Georgia shall not be held responsible for any claim, debt, obligation, or damage of any kind to any person in conducting certification work or in the work of the certifying agent. The certifying agency so designated by the dean shall, along with its employees, be immune from liability to the same extent as the state and state officers and employees under Article 2 of Chapter 21 of Title 50, "The Georgia Tort Claims Act."

History

Ga. L. 1956, p. 16, § 3; Ga. L. 1995, p. 10, § 2; Ga. L. 1996, p. 1151, § 2; Ga. L. 2012, p. 1129, § 1/SB 390.

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O.C.G.A. § 2-11-53

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 3 Certification of Seeds and Plants (§§ 2-11-50 — 2-11-53)

2-11-53. False use of evidence of certification in sale of seeds or plants.

It shall be a misdemeanor for any person, firm, association, or corporation selling seeds or plants in this state to use any evidence of certification, including specially designed tags or any tags similar thereto or the word “certified,” on any package of seeds or plants, unless such seeds or plants have been duly inspected and certified as provided for in this article or have been inspected and certified by a legally constituted agency of another state or foreign country. The duty of enforcing this Code section shall be vested in the Commissioner.

History

Ga. L. 1956, p. 16, § 4; Ga. L. 1996, p. 1151, § 2.

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O.C.G.A. Title 2, Ch. 11, Art. 4

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 4 Seed Arbitration Council (§§ 2-11-70 — 2-11-77)

Article 4 Seed Arbitration Council

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O.C.G.A. § 2-11-70

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 4 Seed Arbitration Council (§§ 2-11-70 — 2-11-77)

2-11-70. Purpose; creation of Seed Arbitration Council.

(a) The intent and purpose of this article are to provide a method for assisting farmers, persons purchasing seed and commercial fruit and nut trees, and persons selling seed and commercial fruit and nut trees in determining the validity of complaints of seed and commercial fruit and nut trees purchasers against seed and commercial fruit and nut tree sellers relating to the quality and performance of the seed and the identity of the variety of fruit and nut trees by establishing a committee to investigate, hold informal hearings, make findings, and render recommendations in the nature of arbitration proceedings where damages suffered by seed and commercial fruit and nut trees purchasers are caused by the alleged failure of the seed to perform as represented or to conform to the description on the labeling thereof as required by law or to be the variety of fruit or nut tree represented by the seller.

(b) In order to effectuate the intent and purpose set out in subsection (a) of this Code section, there is created the “Seed Arbitration Council.”

History

Code 1981, § 2-11-70, enacted by Ga. L. 1994, p. 1761, § 1; Ga. L. 1995, p. 10, § 2; Ga. L. 1996, p. 1151, § 3.

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O.C.G.A. § 2-11-71

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 4 Seed Arbitration Council (§§ 2-11-70 — 2-11-77)

2-11-71. Definitions.

As used in this article, the term:

- (1) “Commissioner” means the Commissioner of Agriculture or the designated official or department employed by the Department of Agriculture of this state.
- (2) “Council” means the Seed Arbitration Council.
- (3) “Person” means an individual, firm, partnership, corporation, or company.
- (4) “Purchaser” means the person who buys agricultural, flower, tree, shrub, or vegetable seed subject to Article 2 of this chapter or any commercial fruit or nut tree.
- (5) “Seller” means any person who sells seed, including but not limited to the person who sold the seed to the purchaser and the person who actually labeled the seed that is the subject of the council’s investigation and any person who sells commercial fruit or nut trees.

History

Code 1981, § 2-11-71, enacted by Ga. L. 1994, p. 1761, § 1; Ga. L. 1996, p. 1151, § 3.

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O.C.G.A. § 2-11-72

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 4 Seed Arbitration Council (§§ 2-11-70 — 2-11-77)

2-11-72. Notice of requirements for filing complaint printed on seed container, label, or invoice; effect of failure to provide notice.

(a) At the time of purchase of agricultural, vegetable, flower, tree, or shrub seed, except for vegetable and flower seed in packets weighing less than one pound for use in home gardens or household plantings or at the time of purchase of any commercial fruit or nut tree, language setting forth the requirement for filing a complaint shall be legibly typed or printed on the seed container, on the label affixed thereto, or printed on the invoice covering bulk seed or on a label attached to or on the invoice covering the commercial fruit or nut tree.

(b) Such language shall be in addition to the labeling requirements specified in Code Section 2-11-22 and shall contain a notice in a form acceptable in interstate trade as prescribed by rule and regulation promulgated by the Commissioner.

(c) If language setting forth the requirement is not so placed on the seed container, label, or invoice covering bulk seed or on a label or invoice covering the commercial fruit or nut tree, the filing of a complaint by the buyer shall not be required as a prerequisite to maintaining a legal action against the seller as provided in Code Section 2-11-73.

History

Code 1981, § 2-11-72, enacted by Ga. L. 1994, p. 1761, § 1; Ga. L. 1996, p. 1151, § 3.

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O.C.G.A. § 2-11-73

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 4 Seed Arbitration Council (§§ 2-11-70 — 2-11-77)

2-11-73. Filing complaint; fee; procedure.

(a) When any farmer or seed purchaser alleges to have been damaged by the failure of any agricultural, flower, tree, shrub, or vegetable seed, except for vegetable and flower seed in packets weighing less than one pound for use in home gardens or household plantings, to conform to or perform as represented by the label required to be attached to such seed under Code Section 2-11-22 or by warranty or as a result of negligence, as a prerequisite to the purchaser's right to maintain a legal action against the seller, the purchaser shall submit a complaint against the seller alleging the damages sustained or to be sustained and shall file such complaint with the Commissioner in time for the seed, crop, or plants to be inspected to determine if the alleged deficiencies warrant arbitration. Whenever any farmer or commercial fruit or nut tree purchaser alleges to have been damaged by the failure of any commercial fruit or nut tree to be the variety represented by the label or invoice or by warranty or as the result of negligence, as a prerequisite to the purchaser's right to maintain a legal action against the seller, the purchaser shall submit a complaint against the seller alleging the damages sustained or to be sustained and shall file such complaint with the Commissioner in time for the trees to be inspected to determine if the alleged deficiencies warrant arbitration. Upon receipt, the Commissioner shall send a copy of the complaint to the seller by registered or certified mail or statutory overnight delivery.

(b) A filing fee of \$75.00 shall be paid to the Commissioner with each complaint filed. Such fee shall be recovered from the seller upon recommendation of the Seed Arbitration Council. The filing fee shall be forfeited if the complaint is independently settled between the purchaser and seller prior to the informal hearing scheduled by the council. Such independent settlement serves to close the file on the complaint.

(c) Within ten days after the receipt of a copy of the complaint, the seller shall file with the Commissioner a response to said complaint. Upon receipt, the Commissioner shall send a copy of the response to the purchaser by registered or certified mail or statutory overnight delivery.

(d) Upon gathering the complaint and the response, the Commissioner shall refer the complaint and the response to the Seed Arbitration Council as provided in Code Section 2-11-75 for investigation, informal hearing, findings, and recommendations on the complaint.

(e) Upon receipt of findings and recommendations of the Seed Arbitration Council, the Commissioner shall transmit said items to the purchaser and seller by registered or certified mail or statutory overnight delivery.

(f) The purchaser and seller shall give written notice to the Commissioner of the acceptance or rejection of the council's recommendations within 30 days of the date the decision is mailed to the purchaser and seller.

History

Code 1981, § 2-11-73, enacted by Ga. L. 1994, p. 1761, § 1; Ga. L. 1996, p. 1151, § 3; Ga. L. 2000, p. 1589, § 3; Ga. L. 2012, p. 1129, § 2/SB 390.

End of Document

O.C.G.A. § 2-11-74

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 4 Seed Arbitration Council (§§ 2-11-70 — 2-11-77)

2-11-74. Membership of Seed Arbitration Council; terms; chairperson and secretary; sessions; expenses.

(a) The Seed Arbitration Council shall be composed of five members. One member and one alternate shall be appointed upon the recommendation of each of the following individuals or executive committee:

(1) The associate dean for the Cooperative Extension Service of the University of Georgia;

(2) The associate dean for the experiment stations of the College of Agricultural and Environmental Sciences of the University of Georgia;

(3) The president of the Georgia Farm Bureau Federation;

(4) The executive committee of the Georgia Seedsmen's Association; and

(5) The Commissioner of Agriculture.

(b) Each member and each alternate shall continue to serve until a replacement has been recommended by his or her appointing official. Alternate members shall serve only in the absence of the member for whom such person is an alternate.

(c) The council shall annually elect a chairperson and a secretary from its membership. The chairperson shall conduct the meetings and deliberations of the council and direct all activities. The secretary shall keep accurate records of all the meetings and deliberations and perform such other duties as the chairperson may direct.

(d) The council may be called into session upon the direction of the chairperson or by the Commissioner to consider matters referred to it by the Commissioner.

(e) Members of the council shall receive no compensation for the performance of their duties but shall be reimbursed for travel expenses by each representing organization.

History

Code 1981, § 2-11-74, enacted by Ga. L. 1994, p. 1761, § 1; Ga. L. 1995, p. 10, § 2; Ga. L. 1996, p. 1151, § 3.

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O.C.G.A. § 2-11-75

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 4 Seed Arbitration Council (§§ 2-11-70 — 2-11-77)

2-11-75. Hearings and investigations.

- (a) Upon receipt of a seed buyer complaint or a commercial fruit or nut tree buyer complaint and a seller response, the council shall schedule a hearing date within ten days and shall make a full and complete investigation of the matters stated in the complaint.
- (b) Hearings scheduled by the council shall be conducted in Tifton, Macon, Athens, or Rome, Georgia, whichever is most convenient to the farmer or other seed or commercial fruit or nut tree purchaser filing the complaint, such determination to be made by the chairperson.
- (c) The Commissioner shall provide administrative support for the council and shall adopt rules and regulations to govern investigations and hearings.
- (d) In conducting its investigation, the council, in addition to other activities deemed necessary, is authorized to:
 - (1) Examine the purchaser on the use of the seed or commercial fruit or nut tree or trees about which the complaint is filed, the purchaser's operation and the seller on the packaging and labeling, and the seller's operations on the seed or commercial fruit or nut tree or trees alleged to be faulty or of a different variety;
 - (2) Grow to production a representative sample of the alleged faulty seed through the facilities of the state and under the supervision of the Commissioner, as deemed necessary;
 - (3) Hold informal hearings at a reasonable time as directed by the chairperson. At such hearing, the purchaser and seller shall be allowed to present their side of the dispute before the council. Attorneys may be present, provided that no attorney may participate directly in the proceeding; and
 - (4) Seek evaluations from authorities in allied disciplines when deemed necessary.
- (e) Any investigation made by fewer than all of the councilmembers shall be by authority of a written directive by the chairperson, and such investigation shall be summarized in writing and considered by the council in reporting its findings and recommendations.
- (f) The Attorney General shall provide legal services for the council.

History

Code 1981, § 2-11-75, enacted by Ga. L. 1994, p. 1761, § 1; Ga. L. 1996, p. 1151, § 3.

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2-11-76. Findings and recommendations.

(a) After completion of the informal hearing by the council, a report of findings and recommendations shall be transmitted to parties present at the arbitration process pursuant to subsection (e) of Code Section 2-11-73. In such report, the council may make any recommendations it deems fair and equitable under the circumstances presented. These recommendations are up to the discretion of the council and may include, but are not limited to, the following:

(1) That no action be taken;

(2) That money damages be paid to the purchaser as a result of the alleged failure of the seed to conform to or perform as represented by the seed label, container, or invoice;

(2.1) That money damages be paid to the purchaser of a commercial fruit or nut tree or trees as a result of the alleged failure of the tree or trees to be the variety represented to the purchaser. Such damages shall not be less than three times the purchase price in the case of fruit trees or six times the purchase price in the case of nut trees;

(3) That the seller reimburse the purchaser for the amount of the filing fee paid to enter the arbitration process; or

(4) Such other recommendation found by the council to be fair and equitable to the parties.

(b) In any litigation involving a complaint which has been the subject of arbitration under this Code section, any party may introduce the report of arbitration as evidence of the facts found in the report as the court may see fit. Findings and conclusions of the council are not admissible as evidence. However, the court may take into account any determinations of the council with respect to the failure of any party to cooperate in the arbitration proceedings.

History

Code 1981, § 2-11-76, enacted by Ga. L. 1994, p. 1761, § 1; Ga. L. 1996, p. 1151, § 3.

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O.C.G.A. § 2-11-77

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 11 Seeds and Plants (Arts. 1 — 4) > Article 4 Seed Arbitration Council (§§ 2-11-70 — 2-11-77)

2-11-77. Rules and regulations.

Pursuant to Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” the Commissioner shall have authority to promulgate and enforce such rules and regulations as may be deemed necessary to carry out the provisions of this article.

History

Code 1981, § 2-11-77, enacted by Ga. L. 1994, p. 1761, § 1; Ga. L. 1996, p. 1151, § 3.

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O.C.G.A. Title 2, Ch. 12, Art. 1

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12
Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 1 Fertilizers (§§ 2-12-1
— 2-12-21)***

Article 1 Fertilizers

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O.C.G.A. § 2-12-1

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12
Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 1 Fertilizers (§§ 2-12-1
— 2-12-21)***

2-12-1. Short title.

This article shall be known and may be cited as the “Georgia Fertilizer Act of 1997.”

History

Code 1981, § 2-12-1, enacted by Ga. L. 1997, p. 1271, § 1.

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O.C.G.A. § 2-12-2

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 1 Fertilizers (§§ 2-12-1 — 2-12-21)

2-12-2. Definitions.

As used in this article, the term:

- (1) “Brand” means a term, design, or trademark used in connection with one or several grades of fertilizer.
- (2) “Bulk fertilizer” means a fertilizer distributed in a nonpackaged form.
- (3) “Commercial value” means the average retail value per unit of primary plant nutrient in dollars and cents. Such values shall be established by the Commissioner annually and may be established without a hearing except where objections are filed thereto. In the event written objections are filed within 20 days after establishment of such values, those objecting shall be afforded a hearing in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” and the effective date of such values shall be postponed pending the outcome of such hearing. The values as established by the Commissioner shall be used in computing the dollar rates of penalties as provided in this article. The commercial value as established in accordance with this article is provided as a guide in determining the actual value of the product and shall not in any manner attempt to fix, regulate, or control the sales price of fertilizer or fertilizer materials. “Guaranteed commercial value” means the value of a ton of fertilizer calculated by multiplying the established commercial values of the primary plant nutrients by the primary plant nutrient guarantees. “Found commercial value” means the value of a ton of fertilizer calculated by multiplying the established commercial values of the primary plant nutrients by the percentages of primary plant nutrients found by laboratory analysis.
- (4) “Custom-mixed specialty fertilizer” means a specialty fertilizer blended according to the specifications that are furnished to a licensee by or for a consumer prior to manufacturing.
- (5) “Deficiency” means the amount of nutrient, found by analysis, less than that guaranteed, which may result from a lack of nutrient ingredients or from lack of uniformity.
- (6) “Distribute” means to offer for sale, sell, exchange, barter, or otherwise supply or make available fertilizer in this state.
- (7) “Distributor” means any person who distributes.
- (8) “Fertilizer” means any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, boiler ashes produced by the pulp and paper industry, and other products exempted by regulation by the Commissioner, but does not include any material for which the distributor compensates, by any means, the property owner or property custodian which is receiving the material.
- (9) “Fertilizer material” means a fertilizer which either:
 - (A) Contains important quantities of no more than one of the primary plant nutrients: nitrogen (N), phosphate (P_2O_5), and potash (K_2O);

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(B) Has 85 percent or more of its plant nutrient content present in the form of a single chemical compound; or

(C) Is derived from a plant or animal residue or by-product or natural material deposit which has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(10) "Grade" means the percentage of total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis; provided, however, that specialty fertilizers, fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units of less than 1 percent of total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O).

(11) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

(
A Total nitrogen (N) __ Percent (%)
)

Available phosphate (P_2O_5)__ Percent (%)

Soluble potash (K_2O)__ Percent (%)

(B) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphatic materials, the total phosphate or degree of fineness, or both, may also be guaranteed; and

(C) Guarantees for plant nutrients other than total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O) are permitted or may be required by regulation by the Commissioner. The guarantees for such other nutrients shall be expressed in the form of the element, or in other forms as the Commissioner may require by regulation. The source (oxides, salts, chelates, etc.) of such other nutrients may be required by regulation to be stated on the application for registration and may be included on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the Commissioner. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accord with the methods and regulations prescribed by the Commissioner.

(12) "Industrial by-product" means any industrial waste or by-product which contains plant nutrients.

(13) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.

(14) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

(15) "Labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer or advertisements, brochures, posters, and television and radio announcements used in promoting the sale of such fertilizer.

(16) "Licensee" means the person who receives a license to distribute fertilizer under the provisions of this article.

(17) "Lot" means that amount of fertilizer on hand and actually covered by the official sample at the time and place of sampling. In determining plant nutrient deficiencies and penalties under this article, the term "lot" means that amount of fertilizer included in a single delivery. The amount of fertilizer in such delivery shall be deemed deficient and subject to the penalties provided by law, provided that at least 20 percent of such delivery is on hand at the time the official sample is drawn.

(18) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

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- (19) "Official sample" means a sample of fertilizer taken by the Commissioner using methods adopted by the Commissioner by regulation in accordance with subsection (b) of Code Section 2-12-7.
- (20) "Percent" or "percentage" means the percentage by weight.
- (21) "Person" means an individual, partnership, association, firm, corporation, or any combination thereof.
- (22) "Primary plant nutrients" means total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O).
- (23) "Secondary" or "micro" plant nutrients means any elements or substances recognized by the Commissioner as being agronomically or horticulturally useful in promoting plant growth, other than primary plant nutrients.
- (24) "Specialty fertilizer" means a fertilizer distributed for nonfarm use, such as, but not limited to, home gardens, household plants, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries. The term "specialty fertilizer" also includes any fertilizer distributed in packages having a net weight of 10 pounds or less.
- (25) "Ton" means a net weight of 2,000 pounds avoirdupois.
- (26) "Unit" of a plant nutrient means 20 pounds or 1 percent of a ton.
- (27) "Unmanipulated manure" means the excreta of animals when not artificially mixed with any material or materials other than those which have been used for bedding, sanitary, or feeding purposes for such animals or for the preservation of the manure, or when such excreta has not been subjected to processing other than composting, and provided such composted products are distributed in bulk only.

History

Code 1981, § 2-12-2, enacted by Ga. L. 1997, p. 1271, § 1; Ga. L. 1998, p. 128, § 2; Ga. L. 2019, p. 91, § 3/HB 512.

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2-12-3. Commissioner to administer article.

This article shall be administered by the Commissioner of Agriculture of the State of Georgia. In such administration, the Commissioner may use any employee of the Georgia Department of Agriculture or other designated agent.

History

Code 1981, § 2-12-3, enacted by Ga. L. 1997, p. 1271, § 1.

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O.C.G.A. § 2-12-4

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2-12-4. Licensing requirements generally; fees; renewal; contents.

(a) No person whose name appears upon the label of a fertilizer shall distribute that fertilizer in Georgia until a fertilizer license has been obtained from the Commissioner. All licenses expire on the thirtieth day of June each year. The license fee shall be \$100.00 per year and must be renewed annually with fees paid by July 1 of each year. If the license renewal fee is not paid by July 1, the applicable license fee shall increase in the manner prescribed by regulation. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(b) An application for license shall be made on forms furnished by or otherwise acceptable to the Commissioner and shall include:

- (1) The name and address of the licensee;
- (2) The name and address of each production location in the state. The licensee shall inform the Commissioner in writing of any additional production locations established during the period of the license; and
- (3) Any other information as prescribed by regulation.

(c)

(1) No licensee shall distribute in this state a specialty fertilizer until it is registered with the Commissioner by the licensee whose name appears on the label, provided that custom-mixed specialty fertilizer shall not be required to be registered. An application for registration for each brand of each grade of specialty fertilizer shall be made on a form furnished by or otherwise acceptable to the Commissioner. Labels for each brand of each grade shall accompany the application. For all specialty products sold in container sizes of ten pounds or less, the annual registration fee shall be \$60.00 for each brand of each grade. Such fee shall be submitted with the registration and a renewal fee of \$60.00 shall be due each July 1.

(2) If the registration renewal fee is not paid by July 1, the registration fee shall increase in the manner prescribed by regulation. No registration fee is required on specialty products sold in container sizes of over ten pounds. Upon the approval of the application for registration by the Commissioner, a copy of the registration shall be furnished to the applicant. Such registration shall be considered permanent so long as no changes or deviations are made in the labels of such products and the required registration fee is paid.

(3) The application for registration shall include the following information:

- (A) The brand and grade;
- (B) The guaranteed analysis;
- (C) The sources of all plant nutrients;
- (D) The name and address of the licensee;
- (E) The net weight or weights; and

(F) Any other information as prescribed by regulation.

History

Code 1981, § 2-12-4, enacted by Ga. L. 1997, p. 1271, § 1; Ga. L. 2010, p. 9, § 1-8/HB 1055.

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 1 Fertilizers (§§ 2-12-1
— 2-12-21)***

2-12-5. Nonresident licensees.

Every nonresident licensee, at the time of licensing and before distributing his or her fertilizer product or products in this state, shall comply with Chapter 5 of this title, the “Department of Agriculture Registration, License, and Permit Act.”

History

Code 1981, § 2-12-5, enacted by Ga. L. 1997, p. 1271, § 1.

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2-12-6. Labeling of fertilizer.

(a) Any fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

- (1) Net weight;
- (2) Brand and grade, provided that the grade shall not be required when no primary plant nutrients are claimed;
- (3) Guaranteed analysis;
- (4) Name and address of the licensee, provided that when the product is not actually manufactured by the licensee, the name of the licensee on the label may be further qualified by either of the following statements:
 - (A) Made for (name of licensee); or
 - (B) Distributed by (name of licensee);
- (5) Sources from which all plant nutrients are derived, if added, guaranteed, claimed, or advertised; and
- (6) Any other information as prescribed by regulation.

(b) In the case of bulk shipments, the information, as specified in paragraphs (1) through (5) of subsection (a) of this Code section in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery.

(c) Custom-mixed specialty fertilizer shall be labeled as specified in paragraphs (1) through (5) of subsection (a) of this Code section.

History

Code 1981, § 2-12-6, enacted by Ga. L. 1997, p. 1271, § 1.

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2-12-7. Inspection of fertilizer; methods of sampling and analysis; distribution of results.

- (a) It shall be the duty of the Commissioner to sample, inspect, make analyses of, and test fertilizers distributed within this state and inspect the storage of bulk fertilizer at any time and place and to such extent as he or she may deem necessary to determine whether such fertilizers are in compliance with the provisions of this article. The Commissioner is authorized to enter upon any public or private premises or carriers during business hours in order to have access to fertilizers subject to provisions of this article and the regulations pertaining thereto, and to the records relating to their distribution and storage.
- (b) The methods of sampling and analysis shall be those adopted by the Commissioner by regulation.
- (c) The Commissioner, in determining for administrative purposes whether any fertilizer is deficient in plant food, shall be guided by the terms “lot” and “official sample” as defined in paragraphs (17) and (19) of Code Section 2-12-2.
- (d) The results of official analysis of fertilizers and portions of official samples shall be distributed by the Commissioner as provided by regulation. Official samples establishing a penalty for nutrient deficiency shall be retained for a minimum of 90 days from issuance of a deficiency report.

History

Code 1981, § 2-12-7, enacted by Ga. L. 1997, p. 1271, § 1.

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2-12-8. Inspection fees; quarterly report; collection penalty; effect of failure to file report and pay assessment.

(a) There shall be paid to the Commissioner for all fertilizer distributed in this state to nonlicensees an inspection fee at the rate of 60¢ per ton, provided that sales or exchanges between licensees and sales of containers of ten pounds or less are exempted from such fee; and provided, further, that the Commissioner may exempt by regulation certain other types of fertilizer from the inspection fee, when deemed appropriate. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(b)

(1) Each licensee distributing fertilizer in this state shall file with the Commissioner a quarterly report of the total tons of fertilizer distributed by such licensee in the state to nonlicensees for the quarterly period ending on the last day of March, June, September, and December. This and such other information as the Commissioner may require by regulation shall be supplied on forms furnished by or acceptable to the Commissioner. A quarterly tonnage report is required even if no reportable tonnage has been sold, provided that licensees which only distribute specialty fertilizer in containers of ten pounds or less shall not be required to submit these quarterly reports.

(2) The report shall be due on or before 30 days following the close of the filing period, and the inspection fee at the rate stated in subsection (a) of this Code section shall be included with the report. If the tonnage report is not filed and the payment of inspection fees is not made within 30 days after the end of the specified filing period, a penalty fee of 10 percent of the amount due or \$10.00, whichever is greater, shall be assessed against the licensee and added to the amount due.

(3) A report not filed for six months or a fee or an assessed penalty which remains unpaid for six months shall constitute cause for the revocation of all registrations and licenses. Any fees owed shall constitute a debt to be collected by the Commissioner and may become the basis for legal action against the licensee.

(c) When more than one person is involved in the distribution of a fertilizer, the licensee who finally distributes a fertilizer to a nonlicensee shall be responsible for reporting the tonnage and paying the inspection fees.

History

Code 1981, § 2-12-8, enacted by Ga. L. 1997, p. 1271, § 1; Ga. L. 1998, p. 128, § 2; Ga. L. 2010, p. 9, § 1-9/HB 1055.

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2-12-9. Penalties for plant food deficiencies; time for payment; effect of failure to pay; alteration of content of fertilizer by recipient.

(a) Total nitrogen (N), available phosphate (P₂O₅), and soluble potash (K₂O).

(1) If the analysis of the official sample shows that a fertilizer is deficient in one or more of its guaranteed primary plant nutrients beyond the investigational allowances set forth in the regulations, the penalty shall be 10 percent of the guaranteed commercial value of the lot. In cases where the found commercial value of the lot is less than the guaranteed commercial value of the lot, an additional penalty of two times the difference in the found commercial value of the lot and the guaranteed commercial value of the lot shall be assessed.

(2) Where there is no deficiency in primary plant nutrients beyond the investigational allowances set forth in the regulations, but where the found commercial value of the lot is not at least 97 percent of the guaranteed commercial value of the lot the penalty for the lot sampled shall be four times the difference between the found commercial value of the lot and the guaranteed commercial value of the lot.

(b) Chlorine in tobacco fertilizer. If the chlorine content of any lot of fertilizer branded for tobacco is more than five-tenths of 1 percent greater than the maximum amount guaranteed, a penalty shall be assessed equal to 10 percent of the guaranteed commercial value of the lot for each additional five-tenths of 1 percent, or fraction thereof, of chlorine in excess.

(c) Secondary and micro plant nutrients. If the analysis of the official sample shows that a fertilizer is deficient in secondary or micro plant nutrients, beyond the investigational allowances as set forth in the regulations, a penalty of \$5.00 per ton per each element found deficient shall be assessed.

(d) Payment of penalties. All penalties must be paid within 31 calendar days after notice of assessment is made to the licensee. Penalties are assessed to the licensee and must be paid to the consumer through the Commissioner by check, or in case of indebtedness of the consumer to the seller, a credit memorandum. If a consumer cannot be found, the amount of the penalty payment shall be paid to the Georgia Department of Agriculture. Failure to pay penalties within 60 days after notice shall be sufficient grounds for the revocation of the licensee's license. The licensee who finally distributes a fertilizer to the nonlicensee shall be responsible for paying the penalty.

(e) If upon satisfactory evidence, a person is shown to have altered the content of a fertilizer shipped to him or her by a licensee, either intentionally or unintentionally, or to have mixed or commingled fertilizer from two or more suppliers such that the result of either alteration changes the analysis of the fertilizer as originally guaranteed, then that person shall become responsible for obtaining a fertilizer license and shall be held liable for all penalty payments and be subject to other provisions of this article, including seizure, condemnation, and stop sale.

(f) A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.

History

Code 1981, § 2-12-9, enacted by Ga. L. 1997, p. 1271, § 1.

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2-12-10. Distribution of misbranded fertilizer prohibited; when misbranded.

No person shall distribute misbranded fertilizer. A fertilizer shall be deemed to be misbranded if:

- (1) Its labeling is false or misleading in any particular;
- (2) It is distributed under the name of another fertilizer product;
- (3) It is not labeled as required in Code Section 2-12-6 and in accordance with regulations prescribed under this article; or
- (4) It purports to be or is represented as a fertilizer or is represented as containing a plant nutrient or fertilizer, unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by regulations of the Commissioner. In adopting such regulations the Commissioner shall give due regard to commonly accepted definitions and official fertilizer terms.

History

Code 1981, § 2-12-10, enacted by Ga. L. 1997, p. 1271, § 1.

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2-12-11. Distribution of adulterated fertilizer prohibited; when adulterated.

No person shall distribute an adulterated fertilizer product. A fertilizer shall be deemed to be adulterated if:

- (1) It contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant, animal, human, or aquatic life or to soil or water when applied in accordance with directions for use on the label or if adequate warning statements or directions for use which may be necessary to protect plant, animal, human, or aquatic life or soil or water are not shown upon the label;
- (2) Its composition falls below or differs from that which it is purported to possess by its labeling;
- (3) It contains unwanted crop seed or weed seed; or
- (4) It contains domestic septage as such term is defined in 40 C.F.R. 503.9.

History

Code 1981, § 2-12-11, enacted by Ga. L. 1997, p. 1271, § 1; Ga. L. 2020, p. 364, § 1/HB 1057; Ga. L. 2021, p. 922, § 2/HB 497.

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2-12-12. Determination of value of ingredients; prohibition of use or deletion from label.

The Commissioner is authorized to determine whether an ingredient listed on the label or otherwise advertised as an ingredient and used in the mixing of any fertilizer contributes to plant growth. If any such ingredient is found to be worthless, harmful, or deceptive, the Commissioner may prohibit its use or require that it be deleted from the label.

History

Code 1981, § 2-12-12, enacted by Ga. L. 1997, p. 1271, § 1.

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2-12-13. Short weight penalty; adjustment of invoice.

(a) If any fertilizer in the possession of the consumer is found by the Commissioner to be short in weight, the licensee of such fertilizer shall within 30 days after official notice from the Commissioner submit to the consumer a penalty payment of four times the commercial value of the shortage in weight of the lot.

(b) If any fertilizer offered for sale is found by the Commissioner to be short in weight, the fertilizer shall be returned for reprocessing at the expense of the licensee.

History

Code 1981, § 2-12-13, enacted by Ga. L. 1997, p. 1271, § 1.

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2-12-14. Exchange between licensees not restricted.

Nothing in this article shall be construed to restrict, subject to inspection fees, or regulate the sale or exchange of fertilizer to other licensees who mix fertilizer materials for sale or to prevent the free and unrestricted shipment of fertilizer to licensees.

History

Code 1981, § 2-12-14, enacted by Ga. L. 1997, p. 1271, § 1.

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2-12-15. Adoption, enforcement, and promulgation of rules and regulations generally; sharing of information.

For the enforcement and implementation of this article, the Commissioner is authorized to prescribe and adopt, according to the provisions of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” and enforce such reasonable rules and regulations relating to the distribution of fertilizers as the Commissioner finds necessary to carry into effect the full intent and meaning of this article and to ensure ethical practices in the sale, delivery, and return of fertilizer. The Commissioner is further authorized to share such information and consult with other agencies such as, but not limited to, the Environmental Protection Division of the Department of Natural Resources and the United States Department of Agriculture’s Natural Resources Conservation Service.

History

Code 1981, § 2-12-15, enacted by Ga. L. 1997, p. 1271, § 1; Ga. L. 2019, p. 91, § 4/HB 512; Ga. L. 2020, p. 364, § 2/HB 1057.

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2-12-16. Revocation or denial of license; cancellation or refusal of registration.

The Commissioner is authorized to revoke the license and cancel registrations of any licensee or to refuse to register products or issue a plant food license upon satisfactory evidence that the licensee or person has used fraudulent or deceptive practices in the evasion or attempted evasion of this article or of any rules and regulations promulgated under this article. No license shall be revoked or denied or no registration shall be canceled or refused until the licensee or person has been notified by certified mail or statutory overnight delivery, return receipt requested, of the time and place of the hearing and has been given an opportunity to appear and be heard according to the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History

Code 1981, § 2-12-16, enacted by Ga. L. 1997, p. 1271, § 1; Ga. L. 2000, p. 1589, § 3.

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2-12-17. Stop sale, stop use, or removal orders.

The Commissioner may issue and enforce a written or printed stop sale, stop use, or removal order to the owner or custodian of any lot of fertilizer and order such person to hold such lot at a designated place when the Commissioner finds said fertilizer is being offered or exposed for sale in violation of any of the provisions of this article until the law has been complied with and said fertilizer is released in writing by the Commissioner or said violation has been otherwise legally disposed of by written authority. The Commissioner shall release the fertilizer so withdrawn when the requirements of the provisions of this article have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

History

Code 1981, § 2-12-17, enacted by Ga. L. 1997, p. 1271, § 1.

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O.C.G.A. § 2-12-18

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2-12-18. Seizure, condemnation, and disposition of nonconforming fertilizer.

In addition to stop sale, stop use, or removal orders, any lot of fertilizer not in compliance with the provisions of this article shall be subject to seizure on complaint of the Commissioner to the court of competent jurisdiction in the area in which such fertilizer is located. If the court finds such fertilizer to be in violation of this article and orders the condemnation of such fertilizer, it shall be disposed of in any manner consistent with the quality of the fertilizer and the laws of this state, provided that in no instance shall the disposition of such fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of such fertilizer or for permission to process or relabel such fertilizer to bring it into compliance with this article.

History

Code 1981, § 2-12-18, enacted by Ga. L. 1997, p. 1271, § 1.

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O.C.G.A. § 2-12-19

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 1 Fertilizers (§§ 2-12-1 — 2-12-21)

2-12-19. Injunctions.

The Commissioner is authorized to apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rule or regulation promulgated under this article notwithstanding the existence of other remedies at law. Any such injunction may be issued without bond.

History

Code 1981, § 2-12-19, enacted by Ga. L. 1997, p. 1271, § 1.

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O.C.G.A. § 2-12-20

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 1 Fertilizers (§§ 2-12-1 — 2-12-21)

2-12-20. Notice of violations; administrative hearing; penalty for violation; prosecution.

(a) If it shall appear from the examination of any fertilizer that any of the provisions of this article or the rules and regulations issued pursuant to this article have been violated, the Commissioner shall cause notice of the violations to be given to the licensee, distributor, or processor from whom such sample was taken. Any person so notified shall be given opportunity to be heard in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of this article or the rules and regulations issued pursuant to this article have been violated, the Commissioner may certify the facts to the proper prosecuting attorney.

(b) Except as otherwise provided in this Code section, any person violating any provision of this article or regulation adopted pursuant to this article shall be guilty of a misdemeanor.

(c) Nothing in this article shall be construed as requiring the Commissioner to report cases for prosecution or for the institution of seizure proceedings as a result of minor violations of this article when he or she believes that the public interest will be best served by a suitable notice of warning in writing or other methods.

(d) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(e) Any person who distributes fertilizer in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be guilty of a misdemeanor for the first offense. For the second or any subsequent offense, any person who distributes fertilizer in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction, shall be punished as provided in Code Section 17-10-4. Each such violation shall constitute a separate offense.

(f) Any person who distributes a fertilizer in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be liable for a civil penalty of not more than \$25,000.00 per violation. For the second or any subsequent offense, any person who distributes a fertilizer in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be liable for a civil penalty of not more than \$50,000.00 per violation.

History

Code 1981, § 2-12-20, enacted by Ga. L. 1997, p. 1271, § 1; Ga. L. 2020, p. 364, § 3/ HB 1057; Ga. L. 2021, p. 922, § 2/ HB 497.

O.C.G.A. § 2-12-20

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O.C.G.A. § 2-12-21

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 1 Fertilizers (§§ 2-12-1 — 2-12-21)

2-12-21. Local regulation prohibited.

(a) No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution regulating the registration, labeling, packaging, sale, storage, transportation, distribution, use, or application of fertilizer.

(b) This Code section shall in no way prohibit or impair the legal right of any county, municipal corporation, consolidated government, or other political subdivision of this state to issue business licenses or to make zoning decisions.

History

Code 1981, § 2-12-21, enacted by Ga. L. 2005, p. 1030, § 1/SB 88.

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O.C.G.A. Title 2, Ch. 12, Art. 2

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12
Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 2 Liming Materials (§§
2-12-40 — 2-12-50)***

Article 2 Liming Materials

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O.C.G.A. § 2-12-40

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12
Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 2 Liming Materials (§§
2-12-40 — 2-12-50)***

2-12-40. Short title.

This article shall be known and may be cited as the “Georgia Liming Materials Act of 1996.”

History

Code 1981, § 2-12-40, enacted by Ga. L. 1996, p. 1183, § 1.

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O.C.G.A. § 2-12-41

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 2 Liming Materials (§§ 2-12-40 — 2-12-50)

2-12-41. Definitions.

As used in this article, the term:

- (1) “Agricultural liming material” means a product whose calcium and magnesium compounds are capable of neutralizing soil acidity and which is sold or distributed for that purpose. Agricultural liming materials may either be in solid or liquid (suspension) form. The following are types of agricultural liming materials:
 - (A) “Burnt lime” is a material made from limestone which consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.
 - (B) “Calclitic liming materials” are those materials composed wholly or primarily of calcium carbonate.
 - (C) “Dolomitic liming materials” are those materials composed of calcium and magnesium carbonates.
 - (D) “Hydrated lime” is a material, made from burnt lime, which consists of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide or magnesium hydroxide or both.
 - (E) “Industrial by-product” is any industrial waste or by-product containing calcium or calcium and magnesium compounds which will neutralize soil acidity.
 - (F) “Limestone” is a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate which is capable of neutralizing soil acidity.
 - (G) “Marl” is a granular or loosely consolidated earthy material composed largely of seashell fragments and calcium carbonate.
- (2) “Brand” means the term, designation, trademark, product name, or other specific designation under which individual agricultural liming materials are offered for sale.
- (3) “Bulk” means in nonpackaged form.
- (4) “Calcium carbonate equivalent” or “neutralizing value” means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.
- (5) “Commissioner” means the Commissioner of Agriculture of the State of Georgia.
- (6) “Distribute” means to offer for sale, sell, exchange, barter, or otherwise supply or make available agricultural liming material in this state.
- (7) “Distributor” means any person who distributes.
- (8) “Fineness” means the percentage by weight of the liming material which will pass the United States Standard Sieve Series of specified sizes. The Commissioner shall establish by regulation the sieve sizes and minimum percentages required to pass such sieves for agricultural liming materials.

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- (9) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of agricultural liming material.
- (10) "Label" means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments.
- (11) "Labeling" means all written, printed, or graphic matter upon or accompanying any liming material or any advertisements, brochures, posters, or television or radio announcements used in promoting the sale of such liming material.
- (12) "Licensee" means the person who is responsible for guaranteeing agricultural liming materials and who receives a lime license to distribute agricultural liming materials under the provisions of this article.
- (13) "Lot" means that amount of agricultural liming material on hand and actually covered by the official sample at the time and place of sampling. In determining deficiencies in and penalties on agricultural liming materials under this article, deficiencies and penalties shall be calculated on the actual tonnage present at the time of sampling, provided that, if at the time of sampling at least 20 percent of the single delivery is present, the total amount in the single shipment shall be subject to penalty.
- (14) "Official sample" means any sample of agricultural liming material taken by the Commissioner or the Commissioner's agent and designated "official" by the Commissioner.
- (15) "Percent" or "percentage" means by weight.
- (16) "Person" means an individual, partnership, association, firm, or corporation.
- (17) "Ton" means a net weight of 2,000 pounds avoirdupois.

History

Code 1981, § 2-12-41, enacted by Ga. L. 1996, p. 1183, § 1.

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 2 Liming Materials (§§
2-12-40 — 2-12-50)***

2-12-42. Administration of article.

This article shall be administered by the Commissioner of Agriculture of the State of Georgia.

History

Code 1981, § 2-12-42, enacted by Ga. L. 1996, p. 1183, § 1.

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O.C.G.A. § 2-12-43

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2-12-43. Licenses required; application, annual renewal, fees, revocation; registration of products; application, fees, cancellation.

(a)

(1) Each person whose name appears on the label of an agricultural liming material or who is responsible for guaranteeing such liming material must obtain a lime license from the Commissioner before distributing such product in Georgia.

(2) All licenses shall expire on June 30 of each year. The application for a license shall be submitted to the Commissioner on forms furnished by or otherwise acceptable to the Commissioner. Upon approval by the Commissioner, a copy of the license shall be furnished to the applicant. A new licensee shall pay a license fee of \$70.00. Thereafter, the license fee shall be based on the annual tonnage of liming materials sold in Georgia by the licensee in the previous 12 month period ending June 30, in accordance with the following:

(A) A \$100.00 annual fee for licensees having sales of 10,000 tons or more of liming materials in this state; or

(B) A \$70.00 annual fee for licensees having sales of less than 10,000 tons of liming materials in this state.

A lime license must be renewed annually and fees shall be received by July 1 of each calendar year, or the applicable license fee shall increase in the manner prescribed in the rules and regulations. Such license may be revoked for cause, after due notice and hearing, for a violation of this article or any rules or regulations adopted by the Commissioner pursuant to this article. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(b)

(1) No licensee shall distribute in this state an agricultural liming material until such product is registered with the Commissioner by the licensee whose name appears on the label. An application for registration for each brand and product name of liming materials shall be made on forms furnished by or otherwise acceptable to the Commissioner. Labels for each brand and product name shall accompany the application. The registration fee shall be \$70.00 per product. Such fee shall be submitted with the registration, and a renewal fee of \$70.00 shall be due each July 1. If renewal registration fees are not received by July 1 of each calendar year, the registration fee shall increase in the manner prescribed in the rules and regulations. Upon approval by the Commissioner, a copy of the registration shall be furnished to the applicant. Such registrations shall be considered permanent so long as no changes or deviations are made in the labels of such products and so long as the registration fees are paid as specified in this article and the rules and regulations of the Commissioner. Such registrations may be canceled for cause, after due notice and hearing, for a violation of this article or any rules and regulations adopted by the Commissioner pursuant to this article.

O.C.G.A. § 2-12-43

(2) A distributor shall not be required to register any brand of agricultural liming material which is already registered under this article by another person, provided the label does not differ in any respect.

History

Code 1981, § 2-12-43, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 1997, p. 143, § 2; Ga. L. 2010, p. 9, § 1-10/HB 1055.

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O.C.G.A. § 2-12-44

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 2 Liming Materials (§§
2-12-40 — 2-12-50)*

2-12-44. Semiannual tonnage statements.

Each licensee shall submit semiannually to the Commissioner, on forms furnished by or acceptable to the Commissioner, a statement as to the total tons of liming material sold by such licensee. This and such other information as the Commissioner may require by regulations shall be supplied for the reporting periods of July 1 through December 31 and January 1 through June 30. Reports shall be received by the Commissioner no later than 30 days after the close of the reporting period.

History

Code 1981, § 2-12-44, enacted by Ga. L. 1996, p. 1183, § 1.

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2-12-45. Labeling requirements.

(a) Agricultural liming materials sold, offered, or exposed for sale in this state shall have affixed to each container in a conspicuous manner on the outside thereof a plainly printed or stamped label, tag, or statement, or in the case of bulk sales, a delivery slip setting forth at least the following information:

- (1) The name and principal office address of the licensee, manufacturer, or distributor;
- (2) The brand or trade name of the material;
- (3) The identification of the product as to the type of the agricultural liming material;
- (4) The net weight of the agricultural liming material;
- (5) The guaranteed calcium carbonate equivalent (neutralizing value). The minimum calcium carbonate equivalent shall be prescribed for various agricultural liming materials by regulation;
- (6) The guaranteed content of elemental calcium (Ca);
- (7) In the case of dolomitic limestone, the guaranteed content of elemental magnesium (Mg). The minimum magnesium content for dolomitic liming materials shall be established by regulations;
- (8) The percent by weight passing through U.S. Standard sieves as prescribed by regulations; and
- (9) The percent moisture. The maximum moisture content will be prescribed by regulation.

(b) No information or statement shall appear on any package, label, delivery slip, or advertising matter which is misleading to the purchaser as to the quality, analysis, type, or composition of any agricultural liming material. No oral or written statement or claim which is false or misleading as to the comparative value or effectiveness of liming materials shall be made in any labeling, promotion, or advertising medium.

History

Code 1981, § 2-12-45, enacted by Ga. L. 1996, p. 1183, § 1.

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Current through the 2022 Regular Session of the General Assembly.

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 2 Liming Materials (§§
2-12-40 — 2-12-50)***

2-12-46. Analysis and sampling by Commissioner.

- (a) It shall be the duty of the Commissioner, who may act through his or her authorized agent, to sample, inspect, make analyses of, and test agricultural liming materials distributed within this state as the Commissioner may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this article. The Commissioner, individually or through his or her agent, is authorized to enter upon any public or private premises or carrier during regular business hours in order to have access to agricultural liming material subject to the provisions of this article and regulations pertaining thereto and to the records relating to their distribution.
- (b) The methods of analysis and sampling shall be those adopted by the Association of Official Analytical Chemists (AOAC) or such other methods approved by the Commissioner.
- (c) The results of official analyses of agricultural liming materials and portions of official samples shall be distributed by the Commissioner as provided for by regulation.

History

Code 1981, § 2-12-46, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 1997, p. 143, § 2.

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O.C.G.A. § 2-12-47

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2-12-47. Sale of noncomplying, toxic, or domestic septage material prohibited.

- (a) No agricultural liming material shall be sold or offered for sale in this state unless it complies with the provisions of this article and rules and regulations adopted pursuant to this article.
- (b) No agricultural liming material shall be sold or offered for sale in this state which contains toxic materials in quantities determined by the Commissioner which may be injurious to plants or animals.
- (c) No agricultural liming material which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be sold or offered for sale in this state.

History

Code 1981, § 2-12-47, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 2020, p. 364, § 4/ HB 1057; Ga. L. 2022, p. 352, § 2/ HB 1428.

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O.C.G.A. § 2-12-48

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 2 Liming Materials (§§ 2-12-40 — 2-12-50)

2-12-48. Penalties for deficient materials.

If the analysis of an official sample shows that an agricultural liming material is deficient in one or more of its guarantees beyond the investigational allowances set forth in the regulations of the Commissioner, the following penalties shall be assessed in accordance with the following provisions:

- (1) In the event the neutralizing value (calcium carbonate equivalent) is found deficient, the penalty shall be 50¢ per percentage point or fraction thereof on all liming materials;
- (2) In the event the magnesium (Mg) is found to be deficient, the penalty shall be \$1.00 per percentage point or fraction thereof on all liming materials;
- (3) When an official sample does not meet screen specifications as set forth in this article, the penalty shall be 50¢ per percentage point or fraction thereof for each sieve size failing to meet its guarantee;
- (4) If the moisture content of an official sample exceeds the guarantee, a penalty of \$1.00 per ton shall be assessed for each increase in moisture of 5 percent or fraction thereof;
- (5) When an official sample is subject to a penalty, the tonnage represented by the official sample shall be subject to a minimum penalty of \$10.00 and a maximum penalty not to exceed the actual retail value of the liming material; and
- (6) Penalty payments will be made to the consumer, when known, through the office of the Commissioner. If the consumer is unknown, the penalty payment will be made to the Commissioner to be deposited in the state treasury.

History

Code 1981, § 2-12-48, enacted by Ga. L. 1996, p. 1183, § 1.

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12
Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 2 Liming Materials (§§
2-12-40 — 2-12-50)***

2-12-49. Rules and regulations; sharing of information.

The Commissioner, after reasonable notice and hearing, is authorized to promulgate and adopt rules and regulations for the administration of this article. The Commissioner is further authorized to share such information and consult with other agencies such as, but not limited to, the Environmental Protection Division of the Department of Natural Resources and the United States Department of Agriculture's Natural Resources Conservation Service.

History

Code 1981, § 2-12-49, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 2019, p. 91, § 5/HB 512; Ga. L. 2020, p. 364, § 5/HB 1057.

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2-12-50. Notice and prosecution of violations; hearings; penalty.

- (a) If it appears to the Commissioner or the Commissioner's agents that this article or the rules and regulations issued under this article have been violated, the Commissioner shall cause notice of the violation to be given to the licensee, distributor, or person responsible; and the persons notified shall be given an opportunity to be heard in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If it appears after such hearing that any of the provisions of this article or the rules and regulations issued pursuant to this article have been violated, the Commissioner may certify the facts to the court having jurisdiction for prosecution as a misdemeanor or other appropriate action.
- (b) Except as otherwise provided in this Code section, any person violating any provision of this article or regulation adopted pursuant to this article shall be guilty of a misdemeanor.
- (c) Nothing in this article shall be construed as requiring the Commissioner to report a violation of this article for prosecution or for the institution of seizure proceedings when the Commissioner believes that the public interest will best be served by other methods.
- (d) Any person who sells or offers for sale an agricultural liming material in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be guilty of a misdemeanor for the first offense. For the second or any subsequent offense, any person who sells or offers for sale an agricultural liming material in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction, shall be punished as provided in Code Section 17-10-4. Each such violation shall constitute a separate offense.
- (e) Any person who sells or offers for sale an agricultural liming material in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be liable for a civil penalty of not more than \$25,000.00 per violation. For the second or any subsequent offense, any person who sells or offers for sale an agricultural liming material in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be liable for a civil penalty of not more than \$50,000.00 per violation.

History

Code 1981, § 2-12-50, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 2020, p. 364, § 6/HB 1057; Ga. L. 2022, p. 352, § 2/HB 1428.

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O.C.G.A. Title 2, Ch. 12, Art. 3

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12
Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§
2-12-70 — 2-12-83)***

Article 3 Soil Amendments

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O.C.G.A. § 2-12-70

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12
Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§
2-12-70 — 2-12-83)***

2-12-70. Short title.

This article shall be known as the “Georgia Soil Amendment Act of 1976.”

History

Ga. L. 1976, p. 359, § 1.

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O.C.G.A. § 2-12-71

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§ 2-12-70 — 2-12-83)

2-12-71. Definitions.

As used in this article, the term:

- (1) “Adulterated” means any soil amendment:
 - (A) Which contains any deleterious or harmful agent in sufficient quantity to be injurious to beneficial plants, animals, or aquatic life when applied in accordance with the directions for use shown on the label;
 - (B) Whose composition differs substantially from that offered in support of registration or shown on the label;
 - (C) Which contains noxious weed seed; or
 - (D) Which contains domestic septage as such term is defined in 40 C.F.R. 503.9.
- (2) “Bulk” means in nonpackaged form.
- (3) “Distribute” means to import, consign, offer for sale, sell, barter, or otherwise supply soil amendments to any person in this state.
- (4) “Distributor” means any person who imports, consigns, sells, offers for sale, barter, or otherwise supplies soil amendments in this state.
- (5) “Label” means the display of written, printed, or graphic matter upon the immediate container of the soil amendment.
- (6) “Labeling” means all written, printed, or graphic matter accompanying any soil amendment and all advertisements, brochures, posters, and television, radio, and oral claims used in promoting its sale.
- (7) “Percent” or “percentage” means the parts per 100 by weight.
- (8) “Person” means an individual, partnership, association, corporation, or other organized body.
- (9) “Product name” means the designation under which a soil amendment is offered for distribution.
- (10) “Registrant” means any person who registers a soil amendment under this article.
- (11) “Soil amendment” means any substance intended for changing the characteristics of soil or other growth medium for the purposes of:
 - (A) Increasing penetrability of water or air;
 - (B) Increasing water-holding capacity;
 - (C) Alleviating or decreasing soil compaction; or
 - (D) Otherwise altering the soil or other medium in such manner that the physical properties are materially enhanced.

O.C.G.A. § 2-12-71

The term “soil amendment” does not include any substance for which nutritional claims are made, such as, but not limited to, commercial fertilizers, liming materials, or unmanipulated vegetable or animal manures.

History

Ga. L. 1976, p. 359, § 3; Ga. L. 2020, p. 364, § 7/ HB 1057; Ga. L. 2022, p. 352, § 2/ HB 1428.

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2-12-70 — 2-12-83)***

2-12-72. Commissioner to administer article.

This article shall be administered by the Commissioner of Agriculture.

History

Ga. L. 1976, p. 359, § 2.

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2-12-73. Registration required; proof of claims or value; fee.

(a) Every soil amendment distributed in this state shall be registered with the Commissioner on forms obtained from the Commissioner's office. The applicant for registration shall provide such information as the Commissioner may require by regulation after opportunity for public hearing.

(b) In determining the acceptability of any product for registration, the Commissioner may require proof of claims made for the soil amendment. If no specific claims are made, the Commissioner may require proof of the usefulness and value of the soil amendment. As evidence of proof, the Commissioner may rely on experimental data furnished by the applicant and may require that such data be developed from tests conducted under conditions identical to or closely related to those conditions present in this state. The Commissioner may reject any data not developed under such conditions and may rely on the advice of the University of Georgia College of Agricultural and Environmental Sciences experiment station personnel or other university personnel in evaluating data for registration.

(c) The registration fee shall be \$55.00 per year for each product. Registration shall expire on December 31, annually, unless an application for renewal has been received prior to the expiration date. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

History

Ga. L. 1976, p. 359, § 4; Ga. L. 1995, p. 10, § 2; Ga. L. 2010, p. 9, § 1-11/HB 1055.

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2-12-70 — 2-12-83)***

2-12-74. Refusal or revocation of registration.

The Commissioner shall refuse to register any soil amendment which fails to comply with this article. He may revoke any registration, after opportunity for hearing, upon satisfactory evidence that the registrant or any of his designated agents has used fraudulent or deceptive practices in the distribution of any soil amendment.

History

Ga. L. 1976, p. 359, § 13.

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2-12-75. Inspection fees; semiannual reporting.

(a) Any person who distributes a soil amendment to another person in this state must pay the Commissioner an inspection fee; provided, however, that sales or exchanges between registrants and sales of containers of ten pounds or less shall be exempt from such fee. The Commissioner shall establish the per ton inspection fee at an amount not to exceed 30¢ per ton, which amount shall equal or exceed annual costs anticipated to be incurred by the department in administering the soil amendment inspection program.

(b) Each registrant must keep accurate records of the registrant's sales and must file semiannual reports covering the periods of January 1 through June 30 and July 1 through December 31. Each semiannual report must be accompanied by full payment of the inspection fee set forth in subsection (a) of this Code section. Each semiannual report must be submitted to the department within 30 days following the end of the applicable filing period. If the tonnage report is not timely filed or is false in any respect, then the Commissioner may revoke the registration or assess a penalty in the amount of the greater of 10 percent of the amount due or \$10.00.

History

Ga. L. 1976, p. 359, § 7; Ga. L. 2020, p. 364, § 8/HB 1057; Ga. L. 2021, p. 922, § 2/HB 497.

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O.C.G.A. § 2-12-76

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2-12-76. Labeling requirements.

Every soil amendment container shall be labeled on the face or display side in a readable and conspicuous form showing:

- (1) The product name;
- (2) A statement of claim or purpose, if any are made;
- (3) Adequate directions for use;
- (4) The net weight or volume; and
- (5) The name and address of the registrant.

History

Ga. L. 1976, p. 359, § 5.

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2-12-70 — 2-12-83)**

2-12-77. When soil amendment deemed misbranded.

A soil amendment shall be considered misbranded if:

- (1) Its label or labeling is false or misleading in any particular;
- (2) It is distributed under the name of another soil amendment; or
- (3) It is represented as a soil amendment or is represented to contain a soil amendment unless such soil amendment conforms to the definition, if any, prescribed by the Commissioner by regulation.

History

Ga. L. 1976, p. 359, § 6.

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2-12-78. Inspection, sampling, and analysis.

The Commissioner or his designated agents are authorized to enter upon any public or private property during regular working hours for the purpose of inspecting or sampling any soil amendment to determine if such amendment is being distributed in compliance with this article. In the examination of such samples, the Commissioner may rely on such tests as he may establish by regulation as necessary for the enforcement of this article.

History

Ga. L. 1976, p. 359, § 9.

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2-12-79. Prohibited acts.

It shall be a violation of this article for any person to:

- (1) Distribute an unregistered soil amendment;
- (2) Distribute an unlabeled soil amendment;
- (3) Distribute a misbranded soil amendment;
- (4) Distribute an adulterated soil amendment;
- (5) Fail to comply with a stop sale, use, or removal order; or
- (6) Fail to submit semiannual reports.

History

Ga. L. 1976, p. 359, § 8.

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O.C.G.A. § 2-12-80

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2-12-80. Promulgation and adoption of rules and regulations; sharing of information.

The Commissioner is authorized to:

(1) Promulgate and adopt:

(A) Such rules and regulations as may be necessary to enforce this article. Such regulations may relate to, but shall not be limited to, methods of inspection and examination, designation of ingredients, and identity of products;

(B) Rules and regulations relative to soil amendments derived from industrial by-products which may include, but not be limited to, application rates, proper conditions for application, application record keeping and retention, use of site-specific nutrient management plans, and storage and containment in or on lands where soil amendments are applied, but shall exclude forest products, soil amendments derived from industrial by-products generated solely from forest products, excluding chemical by-products of pulp digestion, slates, clays, shells, gypsum, and lime; provided, however, that pursuant to Code Section 2-1-6, no local government shall be prohibited or impaired from adopting or enforcing any zoning ordinance, including the adoption of buffers and setbacks; provided, further, that no such buffer or setback shall exceed 100 feet in width; and

(C) Rules and regulations that require every owner and operator of a farm on which soil amendments are being applied to procure a site-specific nutrient management plan and make a copy of such plan available for inspection at the request of the department; and

(2) Share such information and consult with other agencies such as, but not limited to, the Environmental Protection Division of the Department of Natural Resources and the United States Department of Agriculture's Natural Resources Conservation Service.

History

Ga. L. 1976, p. 359, § 14; Ga. L. 2019, p. 91, § 6/HB 512; Ga. L. 2020, p. 364, § 9/HB 1057; Ga. L. 2021, p. 469, § 1/SB 260; Ga. L. 2022, p. 352, § 2/HB 1428.

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O.C.G.A. § 2-12-81

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2-12-70 — 2-12-83)***

2-12-81. Stop sale, use, and removal orders.

The Commissioner may issue and enforce a written or printed stop sale, use, or removal order to the owner or custodian of any lot of soil amendment, ordering him to hold at a designated place any such lot of soil amendment which the Commissioner determines does not comply with this article. When such soil amendment has been made to comply with this article, it shall be released in writing by the Commissioner.

History

Ga. L. 1976, p. 359, § 10.

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§
2-12-70 — 2-12-83)***

2-12-82. Injunctions.

The Commissioner may bring an action to enjoin the violation or threatened violation of this article or the regulations adopted under this article in the superior court of the appropriate county.

History

Ga. L. 1976, p. 359, § 11.

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O.C.G.A. § 2-12-83

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§
2-12-70 — 2-12-83)**

2-12-83. Penalties.

(a) Except as otherwise provided in this Code section, any person violating any provision of this article or regulation adopted under this article shall be guilty of a misdemeanor.

(b) Any person who distributes or applies a soil amendment which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be guilty of a misdemeanor for the first offense. For the second or any subsequent offense, any person who distributes or applies a soil amendment which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction, shall be punished as provided in Code Section 17-10-4. Each such violation shall constitute a separate offense.

(c) Any person who distributes or applies a soil amendment which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be liable for a civil penalty of not more than \$25,000.00 per violation. For the second or any subsequent offense, any person who distributes or applies a soil amendment which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be liable for a civil penalty of not more than \$50,000.00 per violation.

History

Ga. L. 1976, p. 359, § 12; Ga. L. 2020, p. 364, § 10/HB 1057; Ga. L. 2022, p. 352, § 2/HB 1428.

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O.C.G.A. § 2-12-100

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 4 Horticultural Growing Media (§§ 2-12-100 — 2-12-110)

2-12-100. Short title.

This article shall be known and may be cited as the “Georgia Horticultural Growing Media Act.”

History

Code 1981, § 2-12-100, enacted by Ga. L. 1993, p. 986, § 1.

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O.C.G.A. § 2-12-101

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 4 Horticultural Growing Media (§§ 2-12-100 — 2-12-110)

2-12-101. Purpose.

Horticultural growing media are one of the foundations of successful horticultural businesses. As such, it is vital that growers are adequately informed of the basic contents of such media. The purpose of this article is to ensure that horticultural growing media are accurately labeled to reflect their known composition and are suitable for their intended purpose.

History

Code 1981, § 2-12-101, enacted by Ga. L. 1993, p. 986, § 1.

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O.C.G.A. § 2-12-102

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2-12-102. Definitions.

As used in this article, the term:

- (1) “Bulk” means not in a package or in packages of one cubic yard or more.
- (2) “Commissioner” means the Commissioner of Agriculture, any employee of the Department of Agriculture, or any other person authorized by the Commissioner to act on behalf of the Commissioner.
- (3) “Custom medium” means a horticultural growing medium which is prepared to exact specifications of the person who will be planting in the medium and delivered directly to that person without intermediate or further distribution.
- (4) “Department” means the Georgia Department of Agriculture.
- (5) “Distribute” means to offer for sale, sell, barter, exchange, or otherwise supply or make available.
- (6) “Horticultural growing medium” means any substance or mixture of substances which is promoted as or is intended to function as an artificial soil for the managed growth of horticultural crops.
- (7) “Label” means the display of all written, printed, or graphic matter on or attached to the immediate container accompanying the lot of horticultural growing medium.
- (8) “Labeling” means, in addition to the label, any written, printed, or graphic matter accompanying any horticultural growing medium or any advertisements, brochures, posters, television or radio announcements, or any other oral or written material used in promoting a horticultural growing medium.
- (9) “Person” means individuals, partnerships, corporations, other organized bodies or entities, or any combination thereof.
- (10) “Registrant” means the person whose name appears on the label of a horticultural growing medium and who is responsible for labeling such medium.

History

Code 1981, § 2-12-102, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-103. Administration and enforcement.

The Commissioner is authorized to administer and enforce the provisions of this article through the utilization of personnel and facilities of the department.

History

Code 1981, § 2-12-103, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-104. Authority of Commissioner.

The Commissioner is authorized to:

- (1)** Cooperate with and, as the Commissioner may deem necessary, enter into written agreements with any other agency of this state, another state, or the federal government or any other organization or entity that may be of assistance;
- (2)** Inspect or cause to be inspected by duly authorized employees any lands, facilities, equipment, materials, substances, or products used for preparation, distribution, or labeling of horticultural growing media. For this purpose, the Commissioner shall have the power to enter into or upon any place during regular business hours upon notice and to open and sample any bulk material, bundle, package, or other container containing or thought to contain any horticultural growing medium, or to inspect labels or labeling;
- (3)** Require every person registering any horticultural growing medium in this state to furnish on forms supplied by the Commissioner such information as the Commissioner may require to ascertain the accuracy and truthfulness of any label, labeling, or composition of any horticultural growing medium;
- (4)** Place a stop sale order on any horticultural growing medium if the composition thereof is inaccurately or untruthfully labeled;
- (5)** Adopt, in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” such rules and regulations as the Commissioner deems necessary to ensure the accuracy or truthfulness of labels or labeling or content of horticultural growing media, including but not limited to:
 - (A)** Requiring that all registrants of horticultural growing media register each product name with the Commissioner and supply the Commissioner with a complete label and labeling for each product name;
 - (B)** Requiring that all registrants of horticultural growing media supply analyses of horticultural growing media they have distributed, upon request of the Commissioner;
 - (C)** Specifying the contents of the label and the manner of expressing the contents required on each package or accompanying each shipment of horticultural growing media;
 - (D)** Requiring an annual registration fee for each product registered of not more than \$100.00 per product nor more than \$1,500.00 per registrant;
 - (E)** Establishing a stop sale procedure for horticultural growing media which do not meet the requirements of this article or the rules and regulations of the Commissioner;
 - (F)** Determining the suitability of any horticultural growing medium for its intended purpose; and
 - (G)** Requiring data and proof of usefulness from registrants of horticultural growing media in order to determine suitability for its intended purpose.

History

O.C.G.A. § 2-12-104

Code 1981, § 2-12-104, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-105. Assessment and collection of cost of registration.

For the purpose of defraying expenses of registration under this article, the Commissioner may assess and collect the cost thereof with any surplus to be paid into the state treasury.

History

Code 1981, § 2-12-105, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-106. Exemptions.

- (a) Distribution of horticultural growing media planted with live plant material is exempt from the labeling and registration requirements imposed pursuant to this article.
- (b) Distribution of custom media is exempt from the registration requirements imposed pursuant to this article provided it is prepared for a single purchaser and is not held for distribution to other purchasers.
- (c) Distribution of horticultural growing media containing plant nutrients shall be exempt from the requirements of Article 1 of this chapter, the “Georgia Plant Food Act of 1989.”

History

Code 1981, § 2-12-106, enacted by Ga. L. 1993, p. 986, § 1; Ga. L. 1995, p. 10, § 2.

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2-12-107. Revocation, denial, cancellation, and refusal of registration.

The Commissioner is authorized to revoke and cancel registrations of any person or to refuse to register horticultural growing media upon satisfactory evidence that the registrant or person has used fraudulent or deceptive practices in the evasion or attempted evasion of this article or of any rules and regulations promulgated under this article. No registration shall be revoked, denied, canceled, or refused until the registrant or person has been notified by certified mail or statutory overnight delivery, return receipt requested, of the time and place of the hearing and has been given an opportunity to appear and be heard by the Commissioner or the Commissioner's authorized representative.

History

Code 1981, § 2-12-107, enacted by Ga. L. 1993, p. 986, § 1; Ga. L. 2000, p. 1589, § 3.

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2-12-108. Injunctions against violations.

The Commissioner is authorized to apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rule or regulation promulgated under this article notwithstanding the existence of other remedies at law. Any such injunction may be issued without bond.

History

Code 1981, § 2-12-108, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-109. Prohibited acts.

It shall be unlawful for any person to:

- (1) Distribute an unregistered horticultural growing medium, except one exempted from the registration requirements of this article;
- (2) Distribute a horticultural growing medium if the label or labeling thereof does not accurately reflect its composition;
- (3) Distribute a horticultural growing medium which is unsuitable for its intended purpose or which contains substances at a level harmful to plant growth;
- (4) Fail to supply the Commissioner with analyses of a horticultural growing medium when requested by the Commissioner or a person authorized by the Commissioner or this article to make such requests;
- (5) Fail to cease distribution of any horticultural growing medium for which the Commissioner has issued a stop sale order; or
- (6) Obstruct the Commissioner in the performance of the Commissioner's duties under this article.

History

Code 1981, § 2-12-109, enacted by Ga. L. 1993, p. 986, § 1.

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O.C.G.A. § 2-12-110

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 4 Horticultural Growing Media (§§ 2-12-100 — 2-12-110)

2-12-110. Penalty.

Any person violating any provision of this article shall be guilty of a misdemeanor.

History

Code 1981, § 2-12-110, enacted by Ga. L. 1993, p. 986, § 1.

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O.C.G.A. Title 2, Ch. 13

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)***

CHAPTER 13 Commercial Feeds

Official Code of Georgia Annotated

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O.C.G.A. § 2-13-1

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-1. Definitions.

As used in this chapter, the term:

- (1) “Brand name” means any word, name, symbol, or device or any combination thereof identifying the commercial feed of a distributor or licensee and distinguishing it from that of others.
- (2) “Commercial feed” means all materials except whole, unmixed seed, when not adulterated within the meaning of Code Section 2-13-10, which are distributed for use as feed or for mixing in feed, provided that the Commissioner, by regulation, may exempt from this definition or from specific provisions of this chapter commodities such as hay, straw, stover, silage, cobs, husks, hulls, raw meat, and individual chemical compounds or substances when such materials are not intermixed or mixed with other materials and are not adulterated within the meaning of Code Section 2-13-10.
- (3) “Customer-formula feed” means commercial feed which consists of a mixture of commercial feeds, feed ingredients, or both, each batch of which is manufactured according to the specific instructions of the final purchaser.
- (4) “Distribute” means to offer for sale, sell, exchange, or barter commercial feed.
- (5) “Distributor” means any person who distributes.
- (6) “Drug” means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and any article other than feed intended to affect the structure or any function of the animal body.
- (7) “Feed ingredient” means each of the constituent materials making up a commercial feed.
- (8) “Label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed.
- (9) “Labeling” means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrappers or accompanying such commercial feed.
- (9.1) “Licensee” means a person who obtains a commercial feed license.
- (10) “Manufacture” means to grind, mix or blend, or package or to process further a commercial feed for distribution.
- (11) “Mineral feed” means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.
- (12) “Official sample” means a sample of feed taken by the Commissioner or his agent in accordance with subsection (c), (e), or (f) of Code Section 2-13-13.
- (13) “Owner” means a corporation or the stockholders thereof, a partnership, or an individual.
- (14) “Percent” or “percentages” means percentages by weight.
- (15) “Person” includes an individual, a partnership, a corporation, and an association.

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- (16) "Pet" means any domesticated animal normally maintained in or near the household of its owner.
- (17) "Pet food" means any commercial feed prepared and distributed for consumption by dogs or cats.
- (18) "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.
- (18.1) "Specialty pet" means any domesticated animal normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, birds, fish, and turtles.
- (18.2) "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets, but not including feeds for horses, rabbits, and wild birds.
- (19) "Ton" means a net weight of 2,000 pounds avoirdupois.

History

Code 1933, § 42-202, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1992, p. 3018, § 1.

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O.C.G.A. § 2-13-2

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)***

2-13-2. Commissioner to administer chapter.

This chapter shall be administered by the Commissioner of Agriculture.

History

Code 1933, § 42-201, enacted by Ga. L. 1972, p. 10, § 1.

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O.C.G.A. § 2-13-3

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***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)***

2-13-3. Cooperation with other agencies and associations.

The Commissioner may cooperate and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this chapter.

History

Code 1933, § 42-215, enacted by Ga. L. 1972, p. 10, § 1.

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O.C.G.A. § 2-13-4

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)***

2-13-4. Publication of information as to sales, production, use, and analyses.

The Commissioner may publish, in such forms as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable and a report of the results of the analyses of official samples of commercial feeds sold within this state as compared with the analyses guaranteed in the registration and on the label. The information concerning production and use of commercial feed shall not disclose the operations of any person.

History

Code 1933, § 42-216, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1992, p. 3018, § 2.

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O.C.G.A. § 2-13-5

Current through the 2022 Regular Session of the General Assembly.

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Commercial Feeds (§§ 2-13-1 — 2-13-23)***

2-13-5. Disclosure of protected information.

Any person who uses to his own advantage or reveals to anyone other than the Commissioner, officers of the department, or the courts, when relevant in any judicial proceeding, any information acquired under the authority of this chapter concerning any method, records, formulations, or processes which as trade secrets are entitled to protection, shall be guilty of a misdemeanor, provided that this prohibition shall not be deemed to prohibit the Commissioner or his duly authorized agent from exchanging information of a regulatory nature with duly appointed officials of the United States government or the governments of other states, when such officials are similarly prohibited by law from revealing this information.

History

Code 1933, § 42-211, enacted by Ga. L. 1972, p. 10, § 1.

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O.C.G.A. § 2-13-6

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Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-6. License required for distribution; product registration; fees; refusal or cancellation of license or registration.

(a) No person who manufactures a commercial feed within this state or whose name appears on the label of a commercial feed (guarantor), shall distribute a commercial feed in this state without first obtaining a commercial feed license from the Commissioner. No distributor may cause a commercial feed to be distributed in this state without first obtaining a commercial feed license; provided, however, that the Commissioner by rule or regulation may exempt certain distributors. Application for a commercial feed license shall be made on forms provided by the Commissioner that identify the manufacturer's or guarantor's or distributor's name, place of business, and location of each manufacturing facility in the state and such other appropriate information as may be deemed necessary for enforcement of this chapter.

(b) All licenses shall expire on December 31 of each year. Licenses are not transferable and no credit or refund may be granted for licenses held for less than one full year. All commercial feed licenses must be renewed by January 1 of each year. The license fee shall be based upon the number of tons of commercial feed distributed in this state during the preceding 12 month period ending December 31, provided that tonnage of small-package products subject to registration as specified in subsection (d) of this Code section shall not be used in calculating the license fee due. The amount of the license fee shall be based upon the schedule as prescribed in the rules and regulations of the Commissioner but shall not be less than \$75.00 nor more than \$2,000.00 per annum. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(c) A commercial feed license must be renewed annually and fees shall be paid by January 31 of each calendar year, or the applicable license fee shall increase in the manner prescribed in the rules and regulations of the Commissioner.

(d) No licensee shall distribute in this state a pet food or a specialty pet food in packages of ten pounds or less which has not been registered. The application for registration shall be submitted to the Commissioner on forms furnished by or acceptable to the Commissioner. All registrations expire on December 31 of each year. An annual registration fee of an amount prescribed in the rules and regulations of the Commissioner is due by January 1. Such registration fee shall be \$40.00 per product registered, provided that the total of all such registration fees shall not exceed \$2,000.00 per annum for any licensee.

(e) Annual registration fees received after January 31 shall be subject to a delinquent penalty as prescribed in the rules and regulations of the Commissioner.

(f) The license and registration fees provided by this Code section shall not exceed a total amount of \$2,000.00 per annum for any licensee.

(g) The Commissioner is empowered to refuse the commercial feed license application or product registration of any firm not deemed to be in compliance with the provisions of this chapter and to cancel any commercial feed licenses or product registrations subsequently found not to be in compliance with this chapter, provided that no commercial feed license or product registration shall be refused or canceled unless the licensee has been given an opportunity to be heard before the Commissioner and to amend his application or take corrective action in order to comply with the requirements of this chapter.

(h) The Commissioner may request copies of labels and labeling in order to determine compliance with the provisions of this chapter.

History

Ga. L. 1945, p. 213, § 3; Code 1933, § 42-203, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1992, p. 3018, § 3; Ga. L. 2010, p. 9, § 1-12/HB 1055.

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O.C.G.A. § 2-13-7

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2-13-7. Compliance with Chapter 5 of this title.

Every nonresident licensee, at the time of licensing and before distributing commercial feed in this state, shall comply with Chapter 5 of this title, the “Department of Agriculture Registration, License, and Permit Act.”

History

Ga. L. 1945, p. 213, § 10; Code 1933, § 42-213, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1992, p. 3018, § 4.

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O.C.G.A. § 2-13-8

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Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-8. Labeling requirements.

- (a) A commercial feed, other than a customer-formula feed, shall be accompanied by a label bearing the following information:
- (1) The net weight, which may be stated in metric units in addition to the required avoirdupois units;
 - (2) The product name and the brand name, if any, under which the commercial feed is distributed;
 - (3) The guaranteed analysis stated in such terms as the Commissioner, by regulation, determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods, such as the methods published by the Association of Official Analytical Chemists;
 - (4) The common or usual name of each ingredient used in the manufacture of the commercial feed, listed in descending order of predominance by weight; provided, however, that for any commercial feed other than equine feed, the Commissioner, by regulation, may permit the use of a collective term for a group of ingredients which performs a similar function or exempt such commercial feeds or any group thereof from this requirement of an ingredient statement if the Commissioner finds that such statement is not required in the interest of consumers;
 - (5) The name and the principal mailing address of the manufacturer or the person responsible for distributing the commercial feed;
 - (6) Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the Commissioner may require by regulation as necessary for their safe and effective use; and
 - (7) Such precautionary statements as the Commissioner, by regulation, determines are necessary for the safe and effective use of the commercial feed.
- (b) A customer-formula feed shall be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:
- (1) The name and address of the manufacturer;
 - (2) The name and address of the purchaser;
 - (3) The date of delivery;
 - (4) The product name and brand name, if any, and the net weight of each commercial feed used in the mixture;
 - (5) The net weight of every other ingredient used;
 - (6) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the Commissioner may require, by regulation, as necessary for their safe and effective use;
 - (7) Such precautionary statements as the Commissioner, by regulation, determines are necessary for the safe and effective use of the customer-formula feed; and
 - (8) If a drug-containing product is used:

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- (A) The purpose of the medication (claim statement); and
- (B) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with regulations.

History

Code 1933, § 42-204, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1992, p. 3018, § 5; Ga. L. 2007, p. 165, § 1/HB 122.

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O.C.G.A. § 2-13-9

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Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-9. When commercial feed deemed misbranded.

A commercial feed shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular;
- (2) If it is distributed under the name of another commercial feed;
- (3) If it is not labeled as required in Code Section 2-13-8;
- (4) If it purports to be or is represented as a commercial feed or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the Commissioner; or
- (5) If any word, statement, or other information required by or under the authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

History

Code 1933, § 42-205, enacted by Ga. L. 1972, p. 10, § 1.

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2-13-10. When commercial feed deemed adulterated.

A commercial feed shall be deemed to be adulterated:

- (1)** If it bears or contains any poisonous or deleterious substance which may render it injurious to health, provided that, if the substance is not an added substance, such commercial feed shall not be considered adulterated under this paragraph if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health;
- (2)** If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act, other than one which is:
 - (A)** A pesticide chemical in or on a raw agricultural commodity; or
 - (B)** A food additive;
- (3)** If it is, bears, or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act;
- (4)** If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act, provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing, such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity, unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act;
- (5)** If it is, bears, or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act;
- (6)** If any valuable constituent has been in whole or in part omitted or abstracted therefrom or replaced by any less valuable substance;
- (7)** If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;
- (8)** If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the Commissioner to assure that the drug meets the requirements of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the Commissioner shall adopt the current good manufacturing practice regulations for Type A medicated articles and Type B and

O.C.G.A. § 2-13-10

Type C medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless he determines that they are not appropriate to the conditions which exist in this state;

(9) If it contains viable or poisonous weed seeds in amounts exceeding the limits which the Commissioner shall establish by rule or regulation; or

(10) If it is, or it bears or contains any new animal drug which is, unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act.

History

Code 1933, § 42-206, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1982, p. 3, § 2; Ga. L. 1992, p. 3018, § 6.

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O.C.G.A. § 2-13-11

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Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-11. Prohibited acts.

The following acts and the causing thereof within this state are prohibited:

- (1) The manufacture or distribution of any commercial feed that is adulterated or misbranded;
- (2) The adulteration or misbranding of any commercial feed;
- (3) The distribution of agricultural commodities, such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of Code Section 2-13-10;
- (4) The removal or disposal of a commercial feed in violation of an order under Code Section 2-13-14;
- (5) The failure or refusal to obtain a commercial feed license or small package registration in accordance with Code Section 2-13-6;
- (6) The violation of Code Section 2-13-5; and
- (7) The waiving by the Commissioner of any penalties imposed under this chapter.

History

Code 1933, § 42-207, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1992, p. 3018, § 7.

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Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-12. Establishment of standards for feeds; adoption of rules and regulations.

- (a) The Commissioner is authorized to establish standards for commercial feeds.
- (b) The Commissioner is authorized to promulgate such rules and regulations for commercial feeds and pet foods as are specifically authorized in this chapter and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this chapter. In the interest of uniformity, the Commissioner, by regulation, shall adopt, unless he determines that they are inconsistent with this chapter or are not appropriate to conditions which exist in this state, the following:
 - (1) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials, Incorporated, and published in the 1992 official publication of that organization and supplements thereto; and
 - (2) Any regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act and supplements thereto.

History

Code 1933, § 42-208, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1992, p. 3018, § 8.

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O.C.G.A. § 2-13-13

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Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-13. Inspections authorized; receipt for samples; warrant; methods of sampling and analysis generally; forwarding of results.

(a) For the purpose of enforcing this chapter and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the Commissioner, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized to enter, during normal business hours, any factory, warehouse, or establishment within this state in which commercial feeds are manufactured, processed, packed, or held for distribution and any vehicle being used to transport or hold such feeds and to inspect, at reasonable times, within reasonable limits, and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations established under paragraph (8) of Code Section 2-13-10. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(b) If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge thereof a receipt describing the samples obtained.

(c) If the owner of any factory, warehouse, or establishment described in subsection (a) of this Code section or his agent refuses to admit the Commissioner or his agent to inspect the premises in accordance with subsection (a), the Commissioner is authorized to obtain from any court of this state a warrant directing such owner or his agent to submit the premises described in such warrant to inspection.

(d) For the purpose of enforcing this chapter, the Commissioner or his duly designated agent is authorized to enter upon any public or private premises, including any vehicle of transport, during regular business hours, to have access to, to obtain samples of, and to examine records relating to distribution of commercial feeds.

(e) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists or with other generally recognized methods.

(f) The results of all analyses of official samples shall be forwarded by the Commissioner to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates that a commercial feed has been adulterated or misbranded and upon request within ten days following receipt of the analysis, the Commissioner shall furnish to the licensee a portion of the sample concerned.

(g) The Commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in paragraph (12) of Code Section 2-13-1 and obtained and analyzed as provided for in subsections (c), (e), and (f) of this Code section.

History

O.C.G.A. § 2-13-13

Ga. L. 1945, p. 213, §§ 5, 8; Ga. L. 1956, p. 346, § 8; Code 1933, § 42-209, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1982, p. 3, § 2; Ga. L. 1992, p. 3018, § 9.

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2-13-14. Issuance and enforcement of withdrawal from distribution orders; condemnation and confiscation authorized; disposition of condemned feed.

(a) Withdrawal from distribution orders. When the Commissioner or his authorized agent has reasonable cause to believe that any lot of commercial feed is being distributed in violation of this chapter or any of the prescribed regulations under this chapter, he may issue and enforce a written or printed withdrawal from distribution order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the Commissioner or the court. The Commissioner shall release the lot of commercial feed so withdrawn when such provisions and regulations have been complied with. If compliance is not obtained within 30 days, the Commissioner may begin, or upon request of the distributor or licensee shall begin, proceedings for condemnation.

(b) Condemnation and confiscation. Any lot of commercial feed not in compliance with such provisions and regulations shall be subject to seizure on complaint of the Commissioner to the superior court of the county in which the commercial feed is located. If the court finds the commercial feed to be in violation of this chapter and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of this state, provided that in no instance shall the disposition of the commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter.

History

Ga. L. 1945, p. 213, § 13; Code 1933, § 42-210, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1992, p. 3018, § 10.

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**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-15 through 2-13-17. [Reserved]

History

Ga. L. 1945, p. 213, § 12; Ga. L. 1956, p. 346, § 3; Code 1933, § 42-211, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1945, p. 213, § 6; Ga. L. 1956, p. 346, § 1; Ga. L. 1987, p. 3, § 2; Ga. L. 1945, p. 213, § 8; Ga. L. 1956, p. 346, § 2; repealed by Ga. L. 1992, p. 3018, §§ 11-13, effective May 4, 1992.

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O.C.G.A. § 2-13-18

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-18. Injunctions.

The Commissioner is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule or regulation promulgated under this chapter, notwithstanding the existence of other remedies at law. Such injunction shall be issued without bond.

History

Code 1933, § 42-211, enacted by Ga. L. 1972, p. 10, § 1.

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O.C.G.A. § 2-13-19

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-19. Initiation of prosecutions.

(a) It shall be the duty of the Attorney General or each district attorney of a superior court to whom any violation is reported by the Commissioner or his representative to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the Commissioner reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the Commissioner.

(b) Nothing in this chapter shall be construed as requiring the Commissioner or his representative to report for prosecution, to institute seizure proceedings, or to issue a withdrawal from distribution order as a result of minor violations of the chapter or when he believes the public interest will best be served by suitable notice or warning in writing.

History

Code 1933, § 42-211, enacted by Ga. L. 1972, p. 10, § 1.

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O.C.G.A. § 2-13-20

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)***

2-13-20. Certificate of state chemist or other state employee as prima-facie evidence.

In any controversy or prosecution arising under this chapter, a certificate of the state chemist or other state employee making an analysis or inspection, duly sworn to by the state chemist or the employee, shall be prima-facie evidence of the facts therein certified.

History

Code 1933, § 42-214, enacted by Ga. L. 1972, p. 10, § 1.

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O.C.G.A. § 2-13-21

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)***

2-13-21. Applicability of “Georgia Administrative Procedure Act.”

The provisions of this chapter pertaining to rule making, the issuance, revocation, or denial of licenses and registrations, and other administrative actions authorized under this chapter shall be subject to and conducted in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

History

Code 1933, § 42-211, enacted by Ga. L. 1972, p. 10, § 1; Ga. L. 1992, p. 3018, § 14.

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O.C.G.A. § 2-13-22

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)**

2-13-22. Exemptions from chapter; when chapter may be waived.

(a) This chapter shall not apply to any commercial feeds that have been manufactured or produced by any person, partnership, firm, or corporation for the purpose of feeding his, their, or its own domestic animals, livestock, or poultry.

(b) This chapter shall not apply to any commercial feeds whenever the purchaser of such commercial feeds desires to waive this chapter in regard to a particular manufacturer, seller, or producer of commercial feeds and the manufacturer, seller, or producer agrees to waive this chapter. No valid waiver may be executed unless the owner of the domestic animals, livestock, or poultry owns an interest in the feed manufacturing concern or the manufacturing concern owns an interest in the domestic animals, livestock, or poultry. The waiver shall be in writing, signed by both parties, and filed with the department. At any time after the waiver is on file, either party to the waiver may direct, in writing, that the department withdraw the waiver.

History

Code 1933, § 42-212, enacted by Ga. L. 1972, p. 10, § 1.

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O.C.G.A. § 2-13-23

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 13
Commercial Feeds (§§ 2-13-1 — 2-13-23)***

2-13-23. Criminal penalty.

Any person who violates any of the provisions of this chapter or who impedes, hinders, or otherwise prevents or attempts to prevent the Commissioner or his duly authorized agent in the performance of his duty in connection with this chapter shall be guilty of a misdemeanor.

History

Code 1933, §§ 42-211, 42-9922, enacted by Ga. L. 1972, p. 10, § 1.

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O.C.G.A. Title 2, Ch. 14

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7)

CHAPTER 14 Sale of Agricultural and Forest Products

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O.C.G.A. Title 2, Ch. 14, Art. 1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 1 General Provisions

Article 1 General Provisions

Reserved

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O.C.G.A. § 2-14-20

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > *TITLE 2 Agriculture (Chs. 1 — 23)* > *CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7)* > *Article 2 Cotton (§ 2-14-20)*

2-14-20. Sale of cottonseed hulls without having weight stamped on package.

Any person, firm, or corporation who sells cottonseed hulls in bales or packages without having the weight thereof plainly stamped or branded on each bale or package shall be guilty of a misdemeanor.

History

Ga. L. 1901, p. 63, § 1; Penal Code 1910, § 566; Code 1933, § 5-9913.

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O.C.G.A. Title 2, Ch. 14, Art. 3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

Article 3 Honeybees

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O.C.G.A. § 2-14-40

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

2-14-40. License required for sale of bees; fee; revocation of license.

(a) All persons, firms, or corporations desiring to carry on as a business the sale of bees, queens, nuclei, etc., shall apply to the Commissioner of Agriculture as ex officio state entomologist for a license to do so. The application shall be accompanied by a fee of \$25.00. All fees so collected shall be turned over to the Office of the State Treasurer.

(b) The Commissioner, upon investigation of the party so applying and at his discretion, shall issue a license to the same. Such license shall be revoked by the Commissioner if the licensee fails to comply with this article or to carry out the rules and regulations established by the Commissioner.

(c) Any person, firm, or corporation attempting to carry on as a business the sale of bees, queens, nuclei, etc., without the license required by subsection (a) of this Code section or after such license has been revoked shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Code Section 2-14-47.

History

Ga. L. 1921, p. 260, § 1; Ga. L. 1931, p. 7, § 98A; Code 1933, §§ 5-901, 5-9929; Ga. L. 1993, p. 1402, § 18; Ga. L. 2010, p. 863, § 2/SB 296.

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O.C.G.A. § 2-14-41

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

2-14-41. Powers of Commissioner generally; promulgation and enforcement of rules, ordinances, and regulations.

The Commissioner shall have full and plenary power to deal with the American and European foul brood, all other contagious and infectious honeybee diseases, Africanized bees, or any other threat to honeybees. He shall have full power and authority to make, promulgate, and enforce such rules, ordinances, and regulations and to do and perform such acts, through his agents or otherwise, as in his judgment may be necessary to curtail, eradicate, or prevent the introduction, spread, or dissemination of any and all contagious diseases, Africanized bees, or any other threat to honeybees. All such rules, ordinances, and regulations shall have the force and effect of law.

History

Ga. L. 1920, p. 160, § 2; Ga. L. 1931, p. 7, § 98; Code 1933, § 5-902; Ga. L. 1990, p. 373, § 1.

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O.C.G.A. § 2-14-41.1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

2-14-41.1. Prohibition against restriction of honeybee production or maintenance.

No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution prohibiting, impeding, or restricting the establishment or maintenance of honeybees in hives. This Code section shall not be construed to restrict the zoning authority of county or municipal governments.

History

Code 1981, § 2-14-41.1, enacted by Ga. L. 1994, p. 1716, § 1; Ga. L. 1995, p. 10, § 2.

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O.C.G.A. § 2-14-42

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

2-14-42. Inspections authorized generally.

The Commissioner and his agents and employees shall have the authority to enter any depot, express office, storeroom, warehouse, or other premises for the purpose of inspecting any honeybees or beekeeping fixtures or appliances therein in order to ascertain whether such bees or fixtures are infected with any contagious or infectious diseases, have become Africanized, or pose any other threat to honeybees. They may also make such inspections when they have reason to believe that any honeybees or beekeeping fixtures or appliances on the premises have been or are being transported in violation of this article.

History

Ga. L. 1920, p. 160, § 3; Code 1933, § 5-904; Ga. L. 1990, p. 373, § 2.

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O.C.G.A. § 2-14-43

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

2-14-43. Inspection of honeybee colonies; assistance in inspection.

The Commissioner may require the registration and inspection of honeybee colonies as needed. Such inspections shall be made for the primary purpose of combating the spread of bee diseases, Africanized bees, or any other threat to honeybees in this state. All persons subject to this article shall be provided a reasonable opportunity to assist the inspectors in the inspection of such colonies.

History

Ga. L. 1966, p. 192, § 1; Code 1933, § 5-907, enacted by Ga. L. 1970, p. 197, § 1; Ga. L. 1990, p. 373, § 3; Ga. L. 2003, p. 794, § 1.

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O.C.G.A. § 2-14-44

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

2-14-44. Disposition of infected bees or fixtures.

The Commissioner, through his agents or employees, may require the removal from this state of any honeybees or beekeeping fixtures which have been brought into the state in violation of this article. If he finds that any bees or fixtures are infected with any contagious or infectious disease or that such bees or fixtures have been exposed to danger of infection by such diseases, that any honeybees have become Africanized, or that honeybees are confronted with any other threat in this state, the Commissioner may require the destruction, treatment, or disinfection of any such infected or exposed bees, hives, fixtures, or appliances.

History

Ga. L. 1920, p. 160, § 3; Code 1933, § 5-905; Ga. L. 1990, p. 373, § 4.

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O.C.G.A. § 2-14-45

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

2-14-45. Compensation for destroyed property authorized; appraisal.

Whenever bees, hives, or other equipment are ordered destroyed pursuant to Code Section 2-14-44, the Commissioner shall appraise the property to be destroyed. If the Commissioner and the owner are unable to agree on the value, the Commissioner and the owner shall each appoint one disinterested appraiser. These two appraisers shall appoint a third disinterested appraiser. The three appraisers thus appointed shall appraise the property. When the property is destroyed, the Commissioner shall pay any Georgia resident beekeeper whose property is destroyed a sum equal to 50 percent of the appraised value of the property destroyed from any funds appropriated for that specific purpose, provided that in no event shall the compensation paid to any such owner exceed \$25.00 per colony. For the purposes of this Code section, the term "property" shall include bees, hives, frames, and other equipment.

History

Code 1933, § 5-908, enacted by Ga. L. 1970, p. 197, § 1; Ga. L. 1975, p. 705, § 1; Ga. L. 1980, p. 713, § 1; Ga. L. 1990, p. 373, § 5; Ga. L. 1992, p. 1121, § 1; Ga. L. 1996, p. 797, § 1.

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O.C.G.A. § 2-14-46

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

2-14-46. Importation of honeybees or secondhand equipment prohibited without special permit.

The shipment or movement into this state of any honeybees on comb, honeybees in hives, secondhand beehives, honeycomb, frames, used bee shipping cages, secondhand honey containers, or other used beekeeping fixtures is prohibited, except under special permit issued by the Commissioner under such rules and regulations as may be prescribed by him in accordance with Code Section 2-14-41.

History

Ga. L. 1920, p. 160, § 4; Code 1933, § 5-906; Ga. L. 1947, p. 1158, § 3.

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O.C.G.A. § 2-14-47

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 3 Honeybees (§§ 2-14-40 — 2-14-47)

2-14-47. Penalty for violation of article or rules or regulations.

Any person, firm, or corporation violating any of the provisions of this article or any of the rules or regulations of the Commissioner adopted in accordance with this article shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than six months in the county jail.

History

Ga. L. 1920, p. 160, § 5; Code 1933, § 5-9930.

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O.C.G.A. Title 2, Ch. 14, Art. 4

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 4 Pecans (§§ 2-14-60 — 2-14-66)

Article 4 Pecans

Official Code of Georgia Annotated

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O.C.G.A. § 2-14-60

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 4 Pecans (§§ 2-14-60 — 2-14-66)

2-14-60. Definitions.

As used in this article, the term:

- (1) “Grower” means any producer of pecans who does not engage in the business of a processor, as defined in paragraph (2) of this Code section, and who does not sell any pecans at wholesale other than those grown by him.
- (2) “Processor” means any person, firm, partnership, or corporation engaged in the business of cracking, shelling, and grading pecan meats for sale or of cleaning, grading, storing, bagging, or selling in-shell pecans, but this term does not include persons engaged solely in retail sales to the consumer.
- (3) “Wholesaler” means any person, firm, partnership, or corporation, other than a grower as defined in paragraph (1) of this Code section, who sells pecans to others for the purpose of resale. This term does not apply to anyone who sells pecans only direct to the consumer, unless he is also a processor, as defined in paragraph (2) of this Code section.

History

Ga. L. 1974, p. 539, § 1.

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O.C.G.A. § 2-14-61

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 4 Pecans (§§ 2-14-60 — 2-14-66)

2-14-61. Licenses required of pecan processors and wholesalers.

- (a) Within this state, no person, firm, partnership, or corporation shall engage in the processing of pecans other than those grown by him or it or in selling pecans other than those grown by him or it at wholesale without first obtaining a license to do so from the Department of Agriculture.
- (b) Applications for licenses shall be on a form prescribed by the Commissioner.
- (c) Duly issued licenses shall be on a form prescribed by the Commissioner. They shall remain in force unless revoked but shall not be transferable.

History

Ga. L. 1974, p. 539, § 2.

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O.C.G.A. § 2-14-62

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 4 Pecans (§§ 2-14-60 — 2-14-66)

2-14-62. Standards and grades; labels; improper grading or labeling as cause for license revocation.

The Commissioner shall prescribe standards and grades for pecans fit for human consumption. All pecans sold by processors or wholesalers must conform to the prescribed standards and grades and must be labeled accordingly. Improper grading or labeling shall be cause for revocation of the processor's or wholesaler's license.

History

Ga. L. 1974, p. 539, § 3.

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O.C.G.A. § 2-14-63

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 4 Pecans (§§ 2-14-60 — 2-14-66)

2-14-63. Disposition of pecans unfit for human consumption; violation of Code section grounds for license revocation.

Pecans failing to meet the standards prescribed for pecans fit for human consumption shall be destroyed, crushed, or rendered unfit for sale for human consumption by the processors or wholesalers of such pecans. Violation of this Code section shall be sufficient cause for revocation of the processor's or wholesaler's license.

History

Ga. L. 1974, p. 539, § 4.

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O.C.G.A. § 2-14-64

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 4 Pecans (§§ 2-14-60 — 2-14-66)

2-14-64. Rules and regulations.

The Commissioner is authorized to adopt and promulgate rules and regulations to implement this article and to accomplish its purposes. After they are legally adopted and promulgated, such rules and regulations shall have the force and effect of law.

History

Ga. L. 1974, p. 539, § 6.

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Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 4 Pecans (§§ 2-14-60 — 2-14-66)

2-14-65. Injunctions.

In addition to the remedies provided in this article and notwithstanding the existence of an adequate remedy at law, the Commissioner is authorized to apply to the superior courts for an injunction. Such courts shall have jurisdiction and for good cause shown shall grant a temporary or permanent injunction or an ex parte or restraining order, restraining or enjoining a person, firm, partnership, or corporation from violating and continuing to violate this article or any rules and regulations promulgated under this article. Such injunction shall be issued without bond. An injunction may be granted notwithstanding the fact that the violation constitutes a criminal act and notwithstanding the pendency of any criminal prosecution for the same violation.

History

Ga. L. 1974, p. 539, § 7.

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O.C.G.A. § 2-14-66

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 4 Pecans (§§ 2-14-60 — 2-14-66)

2-14-66. Penalty for violations of article or rules and regulations.

Violation of any provision of this article or of the rules and regulations promulgated under this article shall constitute a misdemeanor.

History

Ga. L. 1974, p. 539, § 5.

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O.C.G.A. Title 2, Ch. 14, Art. 5

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 5 Timber Products (Pts. 1 — 3)

Article 5 Timber Products

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O.C.G.A. § 2-14-80

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 5 Timber Products (Pts. 1 — 3) > PART 1 General Provisions (§§ 2-14-80 — 2-14-80.1)

2-14-80. Standard for computing board feet of lumber.

- (a) The legal standard for calculating the number of board feet in a log or in any number of logs in this state shall be the Scribner Decimal C log rule or scale.
- (b) Any sale or contract in which settlement is based on the number of board feet in a log or any number of logs, whether such sale or contract is verbal or written, and in which the method of computing the number of board feet is not stated shall be construed as being based entirely on Scribner's Decimal C log rule or scale. This Code section shall not affect any contract or sale entered into prior to March 13, 1957.
- (c) Nothing in this Code section shall be construed as preventing any person from using, in lieu of the legal log rule articulated in subsection (a) of this Code section, the actual measurement of lumber after it has been sawed as the basis for settlement in any sale or contract involving the necessity for determining the number of board feet. However, if the lumber is to be measured after sawing, it must be so stated in the sale or contract.
- (d) In scaling or measuring the diameter and length of logs, any log as long as 18 feet and not as long as 34 feet shall be measured as two logs and any log 34 feet or more in length shall be measured as three or more logs. Such a division in length shall be done so as to figure logs as of nearly equal lengths as possible and at the same time so as to use even feet in lengths, unless otherwise provided by contract.
- (e) All fractions of inches in diameter shall be figured as to the nearest whole inch, but when several logs have fractions of one-half inch in the measurement of diameters, these fractions shall be distributed as near evenly as possible by adding and subtracting such fractions to and from the diameters in order to figure such diameters in whole inches, unless otherwise provided by contract.

History

Ga. L. 1957, p. 588, §§ 1-3.

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O.C.G.A. § 2-14-80.1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 5 Timber Products (Pts. 1 — 3) > PART 1 General Provisions (§§ 2-14-80 — 2-14-80.1)

2-14-80.1. Form of price quotation where weight is used to determine board feet, cords, or units of pulpwood or timber.

(a) Any person using weight as a basis to determine board feet, cords, or units of pulpwood or timber who buys or offers to buy any pulpwood or timber within this state shall provide the seller or prospective seller of such pulpwood or timber with a quotation of the price of such pulpwood or timber calculated in dollars per 1000 pounds. This Code section shall not prohibit or restrict the use of any acceptable method to calculate the weight or quantity of pulpwood or timber. This Code section shall not be construed as requiring the purchase or use of scales for the purpose of measuring wood, nor shall it be construed as altering the common trade definition of a cord as being equivalent to 128 cubic feet.

(b) Any person who violates any provision of this Code section shall be guilty of a misdemeanor.

History

Ga. L. 1981, p. 935, § 1.

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O.C.G.A. § 2-14-100

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 5 Timber Products (Pts. 1 — 3) > PART 2 Treated Timber Products (§§ 2-14-100 — 2-14-113)

2-14-100 through 2-14-113. [Reserved]

History

Ga. L. 1973, p. 1418, §§ 1-14; Ga. L. 1982, p. 3, § 2; Ga. L. 2010, p. 9, § 1-13/HB 1055; repealed by Ga. L. 2012, p. 1098, § 1/SB 357, effective July 1, 2012.

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O.C.G.A. Title 2, Ch. 14, Art. 5, Pt. 3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 5 Timber Products (Pts. 1 — 3) > PART 3 Dimension Lumber (§§ 2-14-120 — 2-14-123)

PART 3 Dimension Lumber

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O.C.G.A. § 2-14-120

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 5 Timber Products (Pts. 1 — 3) > PART 3 Dimension Lumber (§§ 2-14-120 — 2-14-123)

2-14-120. “Dimension lumber” defined; adoption of standards for grading of dimension lumber.

- (a) As used in this part, the term “dimension lumber” means lumber that is at least two inches (nominal) thick and up to but not including five inches (nominal) thick and two inches or more in width.
- (b) The Commissioner shall require with respect to the grading of dimension lumber that standards shall be in conformity with those which are currently adopted by the American Lumber Standards Committee under the auspices of the United States Department of Commerce.

History

Code 1981, § 2-14-120, enacted by Ga. L. 1990, p. 338, § 1.

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O.C.G.A. § 2-14-121

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 5 Timber Products (Pts. 1 — 3) > PART 3 Dimension Lumber (§§ 2-14-120 — 2-14-123)

2-14-121. Graded dimension lumber to be stamped by licensed agency.

On and after July 1, 1990, it shall be unlawful for any person, firm, or corporation to offer for sale in this state any dimension lumber stamped according to grade unless it has been stamped by a grading agency licensed by the American Lumber Standards Committee under the auspices of the United States Department of Commerce.

History

Code 1981, § 2-14-121, enacted by Ga. L. 1990, p. 338, § 1.

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O.C.G.A. § 2-14-122

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 5 Timber Products (Pts. 1 — 3) > PART 3 Dimension Lumber (§§ 2-14-120 — 2-14-123)

2-14-122. Enforcement by Commissioner; stop sale, stop use, and removal orders; seizure of lumber.

- (a) In order to carry out this part, the Commissioner or his designated agent may enter into or upon any place during reasonable business hours where dimension lumber is being sold or offered for sale to determine if this part is being complied with.
- (b) The Commissioner may issue and enforce written or printed stop sale, stop use, or removal orders to the owners or custodians of any dimension lumber, ordering them to hold the same at a designated place, when the Commissioner finds such dimension lumber being offered for sale in violation of this part, until the law has been complied with and such dimension lumber has been released, in writing, by the Commissioner or the violations have been otherwise legally disposed of by written authority. The Commissioner shall release the dimension lumber when the requirements of this part have been complied with.
- (c) Any dimension lumber not in compliance with this part shall be subject to seizure on the complaint of the Commissioner to the superior court of the county in which the dimension lumber is found. If the court finds the dimension lumber to be in violation of this part and orders its condemnation, the dimension lumber shall be disposed of in any manner consistent with its quality, the interests of the parties, and the laws of this state, provided that in no instance shall the disposition of the dimension lumber be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the dimension lumber in such manner as to bring it into compliance with this part.

History

Code 1981, § 2-14-122, enacted by Ga. L. 1990, p. 338, § 1.

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O.C.G.A. § 2-14-123

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 5 Timber Products (Pts. 1 — 3) > PART 3 Dimension Lumber (§§ 2-14-120 — 2-14-123)

2-14-123. Violations.

Any person violating any provisions of this part shall be guilty of a misdemeanor.

History

Code 1981, § 2-14-123, enacted by Ga. L. 1990, p. 338, § 1.

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O.C.G.A. Title 2, Ch. 14, Art. 6

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 6 Vidalia Onions (§§ 2-14-130 — 2-14-138)

Article 6 Vidalia Onions

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O.C.G.A. § 2-14-130

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 6 Vidalia Onions (§§ 2-14-130 — 2-14-138)

2-14-130. Short title.

This article shall be known and may be cited as the “Vidalia Onion Act of 1986.”

History

Code 1981, § 2-14-130, enacted by Ga. L. 1986, p. 3, § 1.

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O.C.G.A. § 2-14-131

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 6 Vidalia Onions (§§ 2-14-130 — 2-14-138)

2-14-131. Definitions.

As used in this article, the term:

- (1) “Person” means an individual, partnership, corporation, association, or any other legal entity.
- (2) “Shipping date” means the first day on which Vidalia onions may be shipped for sale.
- (3) “Vidalia onion” means all onions of the Vidalia onion variety grown in the Vidalia onion production area.
- (4) “Vidalia Onion Advisory Panel” means the advisory panel established pursuant to Code Section 2-14-138.
- (5) “Vidalia onion production area” means a production area which encompasses only the State of Georgia or such lesser area as may be provided for pursuant to subsection (a) of Code Section 2-14-133.
- (6) “Vidalia onion variety” means varieties of *Allium Cepa* of the hybrid yellow granex, granex parentage, or other similar varieties. The Commissioner may limit the usage of certain varieties or authorize the inclusion of new varieties based upon recommendations of the director of the Experiment Stations of the College of Agricultural and Environmental Sciences of the University of Georgia.

History

Code 1981, § 2-14-131, enacted by Ga. L. 1986, p. 3, § 1; Ga. L. 1995, p. 710, § 1; Ga. L. 1996, p. 6, § 2; Ga. L. 2003, p. 461, § 1.

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O.C.G.A. § 2-14-132

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 6 Vidalia Onions (§§ 2-14-130 — 2-14-138)

2-14-132. Use of term “Vidalia.”

Only onions which are of the Vidalia onion variety and which are grown within the Vidalia onion production area may be identified, classified, packaged, labeled, or otherwise designated for sale inside or outside this state as Vidalia onions. The term “Vidalia” may be used in connection with the labeling, packaging, classifying, or identifying of onions for sale inside or outside this state only if the onions are of the Vidalia onion variety and are grown in the Vidalia onion production area.

History

Code 1981, § 2-14-132, enacted by Ga. L. 1986, p. 3, § 1.

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O.C.G.A. § 2-14-132.1

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 6 Vidalia Onions (§§ 2-14-130 — 2-14-138)

2-14-132.1. Vidalia onion trademark; royalties; license fees.

The Commissioner of Agriculture is authorized to take all actions necessary and appropriate to create, register, license, promote, and protect a trademark for use on or in connection with the sale or promotion of Vidalia onions and products containing Vidalia onions. The Commissioner is authorized to impose and collect a royalty or license fee for the use of such trademark on products containing Vidalia onions or the packaging containing such onion products. Funds derived from such royalties and license fees shall be retained by the Commissioner and shall be used to promote Vidalia onions and to pay costs associated with monitoring the use of such trademark, prohibiting the unlawful or unauthorized use of the trademark, and enforcing rights in the trademark.

History

Code 1981, § 2-14-132.1, enacted by Ga. L. 2000, p. 1301, § 1; Ga. L. 2012, p. 731, § 1/HB 832.

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O.C.G.A. § 2-14-133

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 6 Vidalia Onions (§§ 2-14-130 — 2-14-138)

2-14-133. Rules and regulations; enforcement of article.

(a) The Commissioner is authorized to prescribe rules or regulations which may include, but not necessarily be limited to, quality standards, grades, packing, handling, labeling, and marketing practices for the marketing of onions in this state, including the requirements that all Vidalia onions be initially packed only in the Vidalia onion production area and that no Vidalia onion may be shipped from the Vidalia onion production area in bulk except as may be authorized by rule, and such other regulations as are necessary to administer properly this article. The Commissioner may also prescribe rules or regulations establishing a registration, inspection, and verification program for the production and marketing of Vidalia onions in this state and, after hearing and public comment, further limiting the Vidalia onion production area as defined in paragraph (5) of Code Section 2-14-131. Pursuant to such rules, regulations, and conditions as may be prescribed by the Commissioner, the Commissioner is authorized to grant variances in the production area requirements of this article to any producer who has produced in Georgia, marketed, and labeled onions of the Vidalia onion variety as Vidalia onions prior to January 31, 1986. Such rules or regulations may include within the definition of Vidalia onion variety as defined in paragraph (6) of Code Section 2-14-131 other hybrids or varieties of onions which may be developed and which have characteristics similar to the Vidalia onion variety. All onions sold must conform to the prescribed standards and grades and must be labeled accordingly.

(b) The Commissioner and his agents and employees are authorized to enter any premises or other property where onions are produced, stored, sold, offered for sale, packaged for sale, transported, or delivered to inspect such onions for the purpose of enforcing the provisions of this article and the rules and regulations promulgated under this article.

History

Code 1981, § 2-14-133, enacted by Ga. L. 1986, p. 3, § 1; Ga. L. 1995, p. 710, § 2; Ga. L. 2003, p. 461, § 2.

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2-14-134. Violations; criminal penalties.

- (a)** It shall be unlawful for any person to sell or offer for sale either inside or outside this state any onions as Vidalia onions unless such onions are of the Vidalia onion variety and were grown in the Vidalia onion production area.
- (b)** It shall be unlawful for any person to package, label, identify, or classify any onions for sale inside or outside this state as Vidalia onions or to use the term “Vidalia” in connection with the labeling, packaging, classifying, or identifying of onions for sale inside or outside this state unless such onions are of the Vidalia onion variety and were grown in the Vidalia onion production area.
- (c)** Any person who violates subsection (a) or (b) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 or by imprisonment for not less than one nor more than three years, or both.
- (d)** It shall be unlawful for any person to sell onions in a manner which does not comply with the rules or regulations established by the Commissioner under authority of Code Section 2-14-133.

History

Code 1981, § 2-14-134, enacted by Ga. L. 1986, p. 3, § 1.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 6 Vidalia Onions (§§ 2-14-130 — 2-14-138)

2-14-135. Civil penalties; injunctions.

(a) Any person who violates any provision of this article or who violates any rule or regulation issued by the Commissioner pursuant to this article shall be liable for a civil penalty in an amount not to exceed \$5,000.00 for each and every violation thereof, the amount of such penalty to be fixed by the Commissioner after notice and hearing as provided in Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” for contested cases. Each day of violation shall constitute a separate violation for purposes of this subsection but in no event shall the penalty exceed \$20,000.00. Any moneys recovered pursuant to this Code section shall be deposited in the state treasury.

(b) Whenever in the judgment of the Commissioner any person has engaged in or is about to engage in any act or practice which constitutes or will constitute any violation of this article, the Commissioner may make application to the superior court of the county where such person resides or, if a nonresident of this state, to the superior court of the county where such person is engaged in or is about to engage in such act or practice, for an order enjoining and restraining such act or practice. If it appears to the court, upon any application for a temporary restraining order or upon any application for an interlocutory or permanent injunction, after evidence is received, that any person has engaged in or is about to engage in any act or practice which constitutes or will constitute any violation of this article or any rule or regulation duly issued by the Commissioner under this article, then the court shall enjoin the defendant from committing further violations. It shall not be necessary in such event to allege or prove lack of an adequate remedy at law.

(c) In any court action brought by the Commissioner to enforce any of the provisions of this article or any rule or regulation issued by the Commissioner, the judgment, if in favor of the Commissioner, shall provide that defendant pay to the Commissioner all costs and expenses incurred by the Commissioner in the prosecution of such action.

(d) The Commissioner may file in the superior court of the county wherein the person under order resides, or, if the person is a corporation, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred or in which jurisdiction is appropriate, a certified copy of a final administrative order of the Commissioner unappealed from or a final administrative order of the Commissioner affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though the judgment had been rendered in an action duly heard and determined by such court.

History

Code 1981, § 2-14-135, enacted by Ga. L. 1986, p. 3, § 1.

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 6 Vidalia Onions (§§ 2-14-130 — 2-14-138)

2-14-136. Marketing season shipping date.

The Commissioner may determine and announce a shipping date each year for the Vidalia onion marketing season in this state upon the recommendation of the Vidalia Onion Advisory Panel. Vidalia onions may be shipped prior to such date with a mandatory U.S. No. 1 grade certificate. The Vidalia Onion Advisory Panel shall survey the conditions of the Vidalia onion crop and recommend a shipping date for the marketing season to the Commissioner.

History

Code 1981, § 2-14-136, enacted by Ga. L. 1995, p. 710, § 3; Ga. L. 2003, p. 461, § 3.

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O.C.G.A. § 2-14-137

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 6 Vidalia Onions (§§ 2-14-130 — 2-14-138)

2-14-137. Standards for grades.

The standards for grades adopted by the U.S. Department of Agriculture, U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions, effective January 1, 1960, as amended March 18, 1962, and February 20, 1985 (7 C.F.R. 51.3195-51.3209), December 31, 1981, and U.S. Standards for Grades of Common Green Onions (7 C.F.R. 51.1055-51.1071) December 31, 1981, are adopted and shall be the standards for grades in this state, except that the Commissioner may establish tolerances or allowable percentages of U.S. Standards each season upon the recommendation of the Vidalia Onion Advisory Panel.

History

Code 1981, § 2-14-137, enacted by Ga. L. 1995, p. 710, § 4; Ga. L. 2003, p. 461, § 4; Ga. L. 2005, p. 60, § 2/HB 95; Ga. L. 2006, p. 72, § 2/SB 465.

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O.C.G.A. § 2-14-138

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2-14-138. Advisory panel created.

The Commissioner shall appoint a Vidalia Onion Advisory Panel, to consist of individuals involved in growing, packing, or growing and packing Vidalia onions; at least one county cooperative extension agent from the Vidalia onion production area; and any other person or persons selected by the Commissioner, for the purpose of rendering advice upon his or her request regarding the exercise of his or her authority pursuant to Code Sections 2-14-136 and 2-14-137. Members of the advisory panel shall receive no compensation for their service as such members.

History

Code 1981, § 2-14-138, enacted by Ga. L. 2003, p. 461, § 5.

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O.C.G.A. Title 2, Ch. 14, Art. 7

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 7 Pick-your-own Farm Operations (§§ 2-14-150 — 2-14-153)

Article 7 Pick-your-own Farm Operations

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O.C.G.A. § 2-14-150

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 7 Pick-your-own Farm Operations (§§ 2-14-150 — 2-14-153)

2-14-150. Legislative declarations; intent.

The General Assembly recognizes that persons who patronize farms specializing in pick-your-own agricultural products may incur injuries as a result of the risks involved in such activity. The General Assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activity. The General Assembly finds, determines, and declares that this article is necessary for the immediate preservation of the public peace, health, and safety. It is, therefore, the intent of the General Assembly to encourage the direct sale of agricultural products from farmers to the general public by limiting the civil liability of farmers involved in such activity.

History

Code 1981, § 2-14-150, enacted by Ga. L. 2001, p. 1249, § 1.

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O.C.G.A. § 2-14-151

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 7 Pick-your-own Farm Operations (§§ 2-14-150 — 2-14-153)

2-14-151. Definitions.

As used in this article, the term:

- (1) “Agricultural products” means Christmas trees, fruits, vegetables, pecans, nuts, horticultural products, and other such fresh farm products that are made available to the general public through pick-your-own farm operations.
- (2) “Participant” means any person who enters the farm location, singly or with a group, for the purpose of harvesting fresh farm products from pick-your-own farm operations.

History

Code 1981, § 2-14-151, enacted by Ga. L. 2001, p. 1249, § 1.

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O.C.G.A. § 2-14-152

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 7 Pick-your-own Farm Operations (§§ 2-14-150 — 2-14-153)

2-14-152. Liability of farm owner or operator.

(a) Except as provided in subsection (b) of this Code section, the owner or operator of any farm specializing in pick-your-own agricultural products shall not be liable for an injury to or the death of a participant resulting from the inherent risks of harvesting agricultural products, and, except as provided in subsection (b) of this Code section, no participant or participant's representative shall make any claim against, maintain an action against, or recover from an owner or operator, or any other person or entity for injury, loss, damage, or death of the participant resulting from any of the inherent risks of harvesting agricultural products.

(b) Nothing in subsection (a) of this Code section shall prevent or limit the liability of an owner or operator or any other person or entity if the owner or operator:

- (1) Owns, leases, rents, or otherwise is in lawful possession and control of the land upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the owner or operator;
- (2) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or
- (3) Intentionally injures the participant.

(c) Nothing in subsection (a) of this Code section shall prevent or limit the liability of an owner or operator under liability provisions as set forth in the product liability laws.

History

Code 1981, § 2-14-152, enacted by Ga. L. 2001, p. 1249, § 1.

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O.C.G.A. § 2-14-153

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 14 Sale of Agricultural and Forest Products (Arts. 1 — 7) > Article 7 Pick-your-own Farm Operations (§§ 2-14-150 — 2-14-153)

2-14-153. Warning notices required; effect of failure to comply with notice requirements.

(a) Every owner and operator of a pick-your-own farm operation shall post and maintain white signs which contain the warning notice specified in subsection (b) of this Code section. Such signs shall be placed in a clearly visible location near the entrance of the farm. The warning notice specified in subsection (b) of this Code section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an owner or operator shall contain in clearly readable print the warning notice specified in subsection (b) of this Code section.

(b) The signs and contracts described in subsection (a) of this Code section shall contain the following warning notice:

“Under Georgia law, an owner or operator of a pick-your-own farm location is not liable for an injury to or the death of a participant from the inherent risks of harvesting agricultural products, pursuant to Article 7 of Chapter 14 of Title 2 of the Official Code of Georgia Annotated.”

(c) Failure to comply with the requirements concerning warning signs and notices provided in this Code section shall not prevent an owner or operator from invoking the privileges of immunity provided by this article.

History

Code 1981, § 2-14-153, enacted by Ga. L. 2001, p. 1249, § 1.

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O.C.G.A. § 2-17-1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 17 Georgia Grown Farm to Food Bank Program (F2FB) (§§ 2-17-1 — 2-17-6)

2-17-1. Short title.

This chapter shall be known and may be cited as the “Georgia Grown Farm to Food Bank Program (F2FB).”

History

Code 1981, § 2-17-1, enacted by Ga. L. 1998, p. 1129, § 1; Ga. L. 2022, p. 91, § 1/SB 396.

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O.C.G.A. § 2-17-2

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 17 Georgia Grown Farm to Food Bank Program (F2FB) (§§ 2-17-1 — 2-17-6)

2-17-2. Definitions.

As used in this chapter, the term:

- (1) “Department” means the Georgia Department of Agriculture.
- (2) “Emergency food provider” means a nonprofit, charitable organization that offers groceries or meals to people who are in need of food assistance and who reside in this state.
- (3) “Program” means the Georgia Grown Farm to Food Bank Program (F2FB) created by this chapter.
- (4) “Program participant” means an individual or household which is in need of short-term food assistance to supplement the diet in order to prevent hunger or malnutrition, or both.
- (5) “Regional food bank” means an established nonprofit charitable organization which is qualified as exempt from taxation under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 and which, as part of an existing food bank network, maintains a food distribution operation providing food to nonprofit food pantries and feeding centers that offer groceries or meals to people in need of food assistance.
- (6) “State nutrition information organization” means an established nonprofit charitable organization which is qualified as exempt from taxation under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 and which, as part of its mission, fosters and promotes general health through nutrition education of the public.

History

Code 1981, § 2-17-2, enacted by Ga. L. 1998, p. 1129, § 1; Ga. L. 2022, p. 91, § 1/SB 396.

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O.C.G.A. § 2-17-3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 17 Georgia Grown Farm to Food Bank Program (F2FB) (§§ 2-17-1 — 2-17-6)

2-17-3. Grants to regional food banks; administration; powers and duties of Department of Agriculture.

(a) The Georgia Grown Farm to Food Bank Program (F2FB) is established to provide grants to regional food banks within this state for the purchase, transportation, storage, and distribution of food to emergency food providers and program participants. Such grants shall be made from funds available to the department for such purpose. Grants made pursuant to the program shall be used only for the purchase of food or agricultural commodities from Georgia grown products, as that term is used in Code Section 2-8-90, purveyors, producers, or processors for repacking or processing, or both, of food for distribution to emergency food providers and program participants.

(b) The program shall be administered by the department.

(c) All food purchases made through the use of program funds shall be made in accordance with the following standards:

(1) All food shall be procured from Georgia grown sources;

(2) Food shall be purchased at a level equal to or greater than the seller's input costs plus one-half of the projected appreciation costs; and

(3) Food purchased with funds through the program shall not duplicate food available through the federal commodities program of the United States Department of Agriculture.

(d) The department shall contract with regional food banks for the operation of the program. The department, in conjunction with regional food banks, is authorized to take appropriate actions, including the entry of subcontracts, to ensure uniform access to the program by needy residents of this state. The department may allow a state nutrition information organization to provide free nutrition education as part of the program to residents of this state.

(e) The department shall, by rule or regulation, establish and enforce procedures and guidelines for the determination of eligibility for participation in the program. Such rules, regulations, and procedures shall not limit or affect the established guidelines used by emergency food providers for any of their programs for which no funds are provided through the program established pursuant to this chapter. No person who is eligible for food funded by the program shall be charged for food or encouraged to contribute money in order to receive food under the program.

History

Code 1981, § 2-17-3, enacted by Ga. L. 1998, p. 1129, § 1; Ga. L. 2022, p. 91, § 1/SB 396.

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O.C.G.A. § 2-17-4

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 17 Georgia Grown Farm to Food Bank Program (F2FB) (§§ 2-17-1 — 2-17-6)

2-17-4. Annual review and audit.

The program established pursuant to this chapter and any funds granted pursuant to this chapter or expenditures made with such funds are subject to review and audit by the department and the state auditor to determine proper operation of the program and compliance with statutes, regulations, and policies. Contractors, subcontractors, and others receiving funds or commodities under this chapter shall be subject to audit and review by the state auditor at reasonable times.

History

Code 1981, § 2-17-4, enacted by Ga. L. 1998, p. 1129, § 1; Ga. L. 2022, p. 91, § 1/SB 396.

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O.C.G.A. § 2-17-5

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 17 Georgia Grown Farm to Food Bank Program (F2FB) (§§ 2-17-1 — 2-17-6)

2-17-5. Annual report.

Within 90 days of the conclusion of the state's fiscal year, any entity with which the department has contracted for the operation of the program shall submit to the department an annual report which shall account fully for and shall specify the expenditure of funds made pursuant to the program, the dollar value of Georgia grown products distributed, the number of people and households served in each county, the type and weight of food purchased, and the names of each Georgia grown product purveyor, producer, or processor from whom the program participant procured food. Within 180 days of the end of the state's fiscal year, the Commissioner shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Such report shall include, but not be limited to, relevant information concerning the operation of the program for the preceding fiscal year, the quantity and dollar value of Georgia products distributed, the number of people and households served in each county, and the type and weight of food purchased.

History

Code 1981, § 2-17-5, enacted by Ga. L. 1998, p. 1129, § 1; Ga. L. 2022, p. 91, § 1/SB 396.

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O.C.G.A. § 2-17-6

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 17 Georgia Grown Farm to Food Bank Program (F2FB) (§§ 2-17-1 — 2-17-6)

2-17-6. Violations; penalty.

It shall be unlawful for any person providing services to the department or to any regional food bank or emergency food provider which receives funds or food through the program or for any official or employee of the department to receive food for personal use, unless qualified as a recipient through the program, or to provide services for profit pursuant to the program created by this chapter. Any person violating this Code section shall be guilty of a misdemeanor.

History

Code 1981, § 2-17-6, enacted by Ga. L. 1998, p. 1129, § 1; Ga. L. 2022, p. 91, § 1/SB 396.

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O.C.G.A. Title 2, Ch. 18

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 18 Georgia Tobacco Community Development Board (§§ 2-18-1 — 2-18-6)

CHAPTER 18 Georgia Tobacco Community Development Board

Official Code of Georgia Annotated

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O.C.G.A. § 2-18-1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 18 Georgia Tobacco Community Development Board (§§ 2-18-1 — 2-18-6)

2-18-1 through 2-18-6.

History

Code 1981, §§ 2-18-1 through 2-18-6, enacted by Ga. L. 1999, p. 721, § 1; Ga. L. 2001, p. 310, § 1; repealed by Ga. L. 2019, p. 919, § 2-1/ HB 553, effective July 1, 2019.

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O.C.G.A. Title 2, Ch. 19

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

CHAPTER 19 Georgia Cotton Producers Indemnity Fund

Official Code of Georgia Annotated

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O.C.G.A. § 2-19-1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

2-19-1. Enactment of chapter; purpose.

This chapter is enacted pursuant to the authority granted to the General Assembly by Article III, Section VI, Paragraph II(a)(3) of the Constitution of the State of Georgia and section 1121 of the federal Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999, Public Law 105-277, as amended, and is for the purpose of creating an indemnity fund and making expenditures from such fund to indemnify cotton producers in this state for losses incurred in 1998 or 1999 from the loss of certain properly stored, harvested cotton.

History

Code 1981, § 2-19-1, enacted by Ga. L. 1999, p. 1062, § 1; Ga. L. 2001, p. 956, § 1.

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O.C.G.A. § 2-19-2

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

2-19-2. Definitions.

As used in this chapter, the term:

- (1) “Commissioner” means the Commissioner of Agriculture of this state.
- (2) “Department” means the Department of Agriculture of this state.
- (3) “Eligible cotton producer” means a person, partnership, corporation, or other entity that grew cotton in this state and that incurred a loss in 1998 or 1999 of such properly stored, harvested cotton as the result of the bankruptcy of one or more warehousemen, brokers, or other parties in possession of such cotton or warehouse receipts evidencing title to such cotton; an improper conversion or transfer of such cotton; the issuance of one or more bad checks in payment for such cotton; or other hazards or events as determined by the Commissioner.
- (4) “Federal act” means section 1121 of the federal Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999, Public Law 105-277.
- (5) “Secretary of agriculture” means the secretary of agriculture of the United States.

History

Code 1981, § 2-19-2, enacted by Ga. L. 1999, p. 1062, § 1.

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O.C.G.A. § 2-19-3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

2-19-3. Powers and duties of the Commissioner.

- (a) The Commissioner shall have the following powers and duties:
- (1) To promulgate suitable rules and regulations to carry out the provisions and purposes of this chapter;
 - (2) To request from the Attorney General and any court, agency, or department such assistance and data as will enable the Commissioner to determine the losses of cotton producers for which indemnity payments are available pursuant to this chapter and whether, and the extent to which, a claimant qualifies for such compensation. Any person, corporation, partnership, court, agency, or department is authorized to provide the Commissioner with the information requested upon receipt of a request from the Commissioner. Any provision of law providing for confidentiality of records does not apply to a request of the Commissioner pursuant to this Code section; provided, however, that the Commissioner shall preserve the confidentiality of any such records received;
 - (3) To investigate each individual claim, utilizing, to the extent necessary, electronic warehouse receipt records, financial and banking records, market price records, and other records and documentation necessary to verify the claim;
 - (4) To reinvestigate or reopen denied claims for awards filed with the Commissioner pursuant to this chapter as the Commissioner deems necessary;
 - (5) To apply for funds from, and to submit all necessary forms and reports to, any federal agency participating in a cooperative program to compensate cotton producers who are eligible for indemnity payments pursuant to this chapter and to receive and administer federal funds for the purposes of this chapter;
 - (6) To make indemnity payments to eligible cotton producers in the manner authorized by this chapter. Indemnity payments shall be made directly to eligible cotton producers;
 - (7) To carry out programs designed to inform affected cotton producers of the purposes and requirements of this chapter and the indemnity program created pursuant to this chapter; and
 - (8) To make a report to the secretary of agriculture, Congress, the Governor, and the General Assembly on or before October 1, 1999, and a report upon concluding the affairs of the Georgia Cotton Producers Indemnity Fund of 1999 describing the state's efforts to use the indemnity fund to provide compensation to injured cotton producers.
- (b) The Commissioner and the department shall assist applicants with their claims for indemnity payments through educational programs and administrative assistance.
- (c) Neither rule making nor any proceeding or hearing under the program authorized by this chapter shall be subject in any way to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History

O.C.G.A. § 2-19-3

Code 1981, § 2-19-3, enacted by Ga. L. 1999, p. 1062, § 1.

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O.C.G.A. § 2-19-4

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

2-19-4. Claims by eligible cotton producers; filing; contents.

- (a) A claim may be filed by an eligible cotton producer, as defined in Code Section 2-19-2. In any case in which the person entitled to make a claim is mentally incompetent or is deceased, the claim may be filed on his or her behalf by his or her guardian, executor, or such other individual as is authorized to administer his or her estate.
- (b) A claim must be filed by the claimant not later than July 1, 1999; provided, however, that, upon good cause shown, the Commissioner may extend the time for filing for a period not exceeding two months after such date. Claims shall be filed in the office of the Commissioner in person or by mail. The department shall provide forms for use in filing claims.
- (c) The claim shall be verified and shall contain the following:
- (1) The name, address, and telephone number of the claimant;
 - (2) A description of the amount, nature, and circumstances of the loss;
 - (3) A statement of the extent to which the cotton producer has been or may reasonably be expected to be indemnified or reimbursed for these losses from any other source, including the proceeds of any distribution by a trustee in bankruptcy;
 - (4) An authorization permitting the Commissioner to verify the contents of the application; and
 - (5) Such other information as the Commissioner may require.

History

Code 1981, § 2-19-4, enacted by Ga. L. 1999, p. 1062, § 1.

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O.C.G.A. § 2-19-5

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

2-19-5. Georgia Cotton Producers Indemnity Fund of 1999 created.

- (a) There is created a fund to be known as the Georgia Cotton Producers Indemnity Fund of 1999. The Commissioner shall be the custodian of the fund, shall administer the fund, and may invest the resources of the fund in the same manner and fashion that an insurer authorized to issue contracts of life insurance is authorized to invest its resources.
- (b) The fund shall consist of \$5 million of federal moneys received pursuant to section 1121 of the federal Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999, Public Law 105-277; all moneys appropriated by the General Assembly as required by section 1121 of the federal Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999, Public Law 105-277, for the purpose of compensating claimants under this chapter; any other moneys made available to the fund; and any interest or earnings on such moneys accruing to the fund.
- (c) All funds appropriated to or otherwise paid into the fund shall be presumptively concluded to have been committed to the purpose for which they have been appropriated or paid and shall not lapse.
- (d) The Commissioner is authorized, subject to the limitations contained in this chapter, to disburse the appropriate indemnity payments to the persons eligible for such payments under this chapter from the Georgia Cotton Producers Indemnity Fund of 1999.
- (e) Following the receipt of all claims, the investigation of each claim, as necessary, and the making of a determination that an award should or should not be paid for each claim filed, the Commissioner is authorized to draw warrants upon the Georgia Cotton Producers Indemnity Fund of 1999 to pay the indemnity amounts granted to eligible recipients from such fund. If the total amount of all claims approved for payment exceeds the total amount available in the fund for such payments, a pro rata payment shall be made to each approved claimant in the proportion that such claimant's approved claim amount bears to the total of all approved claims.
- (f) If more than \$5 million has been paid to cotton producers prior to January 1, 2000, any excess funds in the Georgia Cotton Producers Indemnity Fund of 1999 shall be expended as provided in Code Section 2-19-5.1.

History

Code 1981, § 2-19-5, enacted by Ga. L. 1999, p. 1062, § 1; Ga. L. 2000, p. 1510, § 4; Ga. L. 2001, p. 956, § 2.

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O.C.G.A. § 2-19-5.1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

2-19-5.1. “Cotton ginner” defined; payment of excess funds in indemnity fund; filing claims.

(a) As used in this Code section, the term:

(1) “Contingent claim” means a claim filed because a trustee in bankruptcy had asserted, on or before March 1, 2001, a preference claim against the claimant to recover payments without which the claimant would have suffered a loss compensable under this chapter. “Contingent claim” also means a claim that would have been contingent, if it had been filed by a producer on or before May 1, 2000, or by a ginner on or before July 1, 2000.

(2) “Cotton ginner” means any person, firm, partnership, limited liability company, or corporation which operated a cotton gin in this state on May 1, 2000, and which incurred a loss as described in this Code section on or before May 1, 2000.

(b) If Congress so requires before January 1, 2002, notwithstanding any other provision of this chapter, after all valid and properly filed noncontingent claims of cotton producers filed on or before May 1, 2000, have been paid and after all valid and properly filed contingent claims of cotton producers filed on or before August 1, 2001, have been paid, any moneys remaining in the Georgia Cotton Producers Indemnity Fund of 1999, shall be paid to cotton ginner who:

(1) Incurred a loss as the result of the business failure of any cotton buyer doing business in this state or the failure or refusal of any such cotton buyer to pay the contracted price which had been agreed upon by the ginner and the buyer for cotton grown in this state on or after January 1, 1997, and which had been purchased or contracted by the ginner from cotton producers in this state;

(2) Paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in this state;

(3) Notified the Commissioner on or before May 1, 2000, either orally or in writing, of a loss sustained by such cotton ginner as a result of the business failure of any cotton buyer doing business in this state or the failure or refusal of such cotton buyer to pay the contracted price which had been agreed upon by the ginner and the buyer for cotton grown in this state on or after January 1, 1997, and which had been purchased or contracted by the ginner from cotton producers in this state; and

(4) Filed any noncontingent claim for indemnification from the Georgia Cotton Producers Indemnity Fund of 1999 with the Commissioner, in writing and accompanied by sufficient proof of such losses, on or before July 1, 2000, or filed any contingent claim on or before August 1, 2001.

(c) Claims shall be filed by cotton ginner, shall contain the same information, and shall be verified in the same manner as provided in Code Section 2-19-4 for claims by cotton producers. The Commissioner shall have the same powers and duties to investigate, process, and pay claims of cotton ginner as provided in Code Section 2-19-3 for claims of cotton producers. Claims and the acceptance of payments on such claims shall be subject to Code Sections 2-19-6 and 2-19-7. Properly filed, verified, and proven claims by cotton ginner shall be paid by the Commissioner from the fund on or before December 31, 2001, or as soon as administratively practical thereafter. The payment of such claims shall not affect any payments which have previously been made to cotton producers from the fund. If insufficient moneys remain in the

O.C.G.A. § 2-19-5.1

fund to pay the total amount of all claims filed by cotton ginner, claims shall be paid on a proportional basis, based on the ratio of each cotton ginner's properly filed and proven claim to the total of all cotton ginner's claims properly filed and proven. Any moneys remaining in the Georgia Cotton Producers Indemnity Fund of 1999 on January 1, 2002, after the payment of claims shall be paid into the general fund of the state treasury.

(d) Also notwithstanding any other provision of this chapter, including subsection (c) of this Code section, any moneys remaining in the Georgia Cotton Producers Indemnity Fund of 1999 after all valid and properly filed noncontingent claims of cotton producers have been paid, shall also be paid to eligible cotton producers who filed contingent but otherwise valid claims on or before August 1, 2001.

(e) For a contingent claim to be paid, the claimant must tender proof acceptable to the Commissioner no later than November 30, 2001, that the contingency has occurred and the claimant has suffered the loss which would have been eligible but for the alleged preference payments. A contingent claim may be paid from the fund only to the extent of the actual recovery by the trustee. The Commissioner shall consider the reasonableness of any settlement or any apparent failure to litigate in good faith with the trustee. The Commissioner may cast upon contingent claimants the burden of proving the reasonableness of any settlement or apparent failure to litigate in good faith.

History

Code 1981, § 2-19-5.1, enacted by Ga. L. 2000, p. 1510, § 5; Ga. L. 2001, p. 956, § 3; Ga. L. 2005, p. 60, § 2/HB 95.

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O.C.G.A. § 2-19-6

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

2-19-6. Stipulations on acceptance of indemnity payments; recovery of payments by the Commissioner.

(a) Acceptance of an indemnity payment made pursuant to this chapter shall subrogate the state, to the extent of such indemnity payment, to any right or right of action accruing to the claimant to recover payments on account of losses resulting from the loss of the cotton or proceeds from the sale of the cotton with respect to which the indemnity payment is made. Acceptance of an indemnity payment made pursuant to this chapter shall constitute an agreement on the part of the recipient to repay to the Commissioner for deposit into the general fund of the state treasury any and all amounts, except those amounts in excess of any indemnity payment, recovered by the claimant in any bankruptcy proceeding, other civil action, or in any other way arising from the loss of cotton or the loss of proceeds from the sale of cotton for which an indemnity payment has been made pursuant to this chapter. The requirements of this Code section shall be included in and made a condition of any claim filed pursuant to this chapter.

(b) Alternatively, if Congress so requires,

(1) Acceptance of an indemnity payment made pursuant to this chapter shall constitute an agreement on the part of the recipient to repay to the Commissioner for deposit into the Georgia Cotton Producers Indemnity Fund of 1999, any and all amounts, except those amounts in excess of any indemnity payment, recovered by the claimant in any bankruptcy proceeding, other civil action, or in any other way arising from the loss of cotton or the loss of proceeds from the sale of cotton for which an indemnity payment has been made pursuant to this chapter. The requirements of this Code section shall be deemed a condition of any claim filed pursuant to this chapter.

(2) The proceeds of any bond collected by the commissioner for the benefit of claimants, who have been paid by the Indemnity Fund, to that extent will be paid into the fund.

History

Code 1981, § 2-19-6, enacted by Ga. L. 1999, p. 1062, § 1; Ga. L. 2001, p. 956, § 4.

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O.C.G.A. § 2-19-7

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

2-19-7. Violations of chapter.

Any person who asserts a false claim under the provisions of this chapter shall be guilty of a violation of Code Section 16-10-20 and, upon conviction, shall be punished as provided in such Code section. Upon conviction thereof, such person shall further forfeit any benefit received pursuant to this chapter and shall reimburse and repay the state for payments received or paid on his or her behalf pursuant to any of the provisions of this chapter.

History

Code 1981, § 2-19-7, enacted by Ga. L. 1999, p. 1062, § 1.

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O.C.G.A. § 2-19-8

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 19 Georgia Cotton Producers Indemnity Fund (§§ 2-19-1 — 2-19-8)

2-19-8. Appropriation of funds by the General Assembly.

No indemnity payments shall be paid pursuant to this chapter unless the General Assembly appropriates not less than \$5 million of state funds to the Georgia Cotton Producers Indemnity Fund of 1999, and such appropriated state funds become available to the fund on or before July 1, 1999, for the purpose of making indemnity payments. This chapter shall be repealed on July 1, 1999, if the General Assembly has not appropriated \$5 million or more of state funds on or before such date to match the \$5 million in federal funds made available for the purpose of making indemnity payments pursuant to the federal act. If this chapter is repealed pursuant to the provisions of this Code section, all moneys received from the United States pursuant to the federal act shall be repaid to the secretary of agriculture as provided in the federal act. If this chapter is repealed as provided in this Code section, the Commissioner and the department shall be authorized to assist the secretary of agriculture in determining eligibility of Georgia cotton producers for indemnity payments by the secretary.

History

Code 1981, § 2-19-8, enacted by Ga. L. 1999, p. 1062, § 1.

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O.C.G.A. § 2-21-1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 21 Organic Certification and Labeling (§§ 2-21-1 — 2-21-8)

2-21-1. Short title.

This chapter shall be known and may be cited as the “Georgia Organic Certification and Labeling Act.”

History

Code 1981, § 2-21-1, enacted by Ga. L. 2000, p. 1648, § 1.

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O.C.G.A. § 2-21-2

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 21 Organic Certification and Labeling (§§ 2-21-1 — 2-21-8)

2-21-2. Definitions.

As used in this chapter, the term:

- (1) “Certification” means the verification of authentic organic practices in the production or processing of organic food or feed and is an annual process by which the producer or processor of fresh, wholesale, or retail organic food or feed receives written certification from the department or a department approved certifying entity that, through the on-site inspection of the production, storage, processing, transportation, distribution, and required audit trail practices used by an organic producer or processor, consumers are assured that organic food or feed is produced and processed in compliance with Code Section 2-21-3. For purposes of complying with Code Section 2-21-3, certification does not require membership in nor imply a contractual agreement to produce or process organic food or feed for a certifying organic organization, business, firm, or individual. However, certification or the use of organic labeling shall require the maintenance of records and documentation verifying full compliance with the organic standards. All records shall be made available to the department or an approved certifying entity upon request.
- (2) “Certifying entity” means any organization, business, firm, or individual that:
 - (A) Has standards for certification of organic food or feed production or processing which meet or exceed standards set by the department and which are approved in writing by the Commissioner or his or her designee; and
 - (B) Meets such education, experience, financial, and ethical standards as are set by rules promulgated by the Commissioner and meets the requirements of Chapter 5 of this title.
- (3) “Commissioner” means the Commissioner of Agriculture of this state.
- (4) “Department” means the Georgia Department of Agriculture.
- (5) “Feed” means any article or substance normally intended to be consumed by animals for physical subsistence and health.
- (6) “Food” means any article or substance normally intended to be consumed by humans for physical subsistence and health.
- (7) “Organic” means an agriculture management system that enhances biodiversity, biological cycles, and soil biological activity to produce agricultural commodities and foster human and environmental health.

History

Code 1981, § 2-21-2, enacted by Ga. L. 2000, p. 1648, § 1.

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O.C.G.A. § 2-21-3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 21 Organic Certification and Labeling (§§ 2-21-1 — 2-21-8)

2-21-3. Certification requirements.

(a) Upon testing, any agricultural ingredient, article, commodity, or product which is identified, labeled, advertised, packaged, or promoted as organic shall contain no more than 5 percent of a level established as toxic by the United States Food and Drug Administration, the United States Environmental Protection Agency, the Environmental Protection Division of the Department of Natural Resources, or the United States Department of Agriculture.

(b) Producers, brokers, distributors, and processors of an organic food or feed product which is identified, advertised, promoted, labeled, or packaged as organic shall keep accurate records of all purchasing, shipping, and storage practices which transpired while any organic commodity or product was in the possession of a producer, broker, distributor, or processor. Accurate records shall include the location at which such organic commodity or product originated.

(c) On or after July 1, 2000, any qualifying organic production, distribution, or processing practices shall be deemed eligible for certification upon approval by the department. The department shall review any organic production, distribution, or processing practice which began prior to July 1, 2000, and may approve certification if such practice meets the requirements as set forth in this chapter and the standards adopted by the department.

History

Code 1981, § 2-21-3, enacted by Ga. L. 2000, p. 1648, § 1; Ga. L. 2001, p. 4, § 2.

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O.C.G.A. § 2-21-4

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 21 Organic Certification and Labeling (§§ 2-21-1 — 2-21-8)

2-21-4. Packaging and labeling; registration required.

- (a) No person may use the words “certified organic by” in the identification, advertising, promotion, packaging, or labeling of a food or feed ingredient, article, commodity, or product unless that ingredient, article, commodity, or product complies with the requirements of Code Section 2-21-3 and unless the producer, distributor, or processor has a certification in good standing from the department.
- (b) No person who produces, processes, distributes, or handles an advertised, promoted, identified, tagged, stamped, packaged, or labeled organic food or feed ingredient, article, commodity, or product may substitute or commingle any ingredient, article, commodity, or product which does not comply with Code Section 2-21-3.
- (c) Any fresh, wholesale or retail organic food or feed ingredient, article, commodity, or product shall be tagged, stamped, labeled, crated, bagged, packaged, or be in any other standardized form which complies with state and federal regulations pertaining to inspection, identity, contents, weight, measure, and grade.
- (d) Any food or feed ingredient, article, commodity, or product labeled as organic must be certified by the department or a department approved certifying entity as meeting the requirements of this chapter prior to being sold in the State of Georgia after July 1, 2000.
- (e) On and after January 1, 2003, no organization, business, firm, or individual shall act as a certifying entity in this state unless such organization, business, firm, or individual has first registered with the department. The Commissioner shall establish by regulation registration standards for producers, processors, distributors, handlers, and certifying entities not inconsistent with this chapter. Registration shall be made upon forms prescribed and furnished by the department. Registrations shall expire on the last day of December of the year for which they are issued. The Commissioner shall establish by rule a registration fee for certifying entities in an amount of not less than \$75.00 nor more than \$1,000.00 per annum and may establish classes of certifying entities with different registration fees for each class. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

History

Code 1981, § 2-21-4, enacted by Ga. L. 2000, p. 1648, § 1; Ga. L. 2002, p. 1295, § 1; Ga. L. 2010, p. 9, § 1-14/HB 1055; Ga. L. 2017, p. 618, § 1/SB 69.

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O.C.G.A. § 2-21-5

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 21 Organic Certification and Labeling (§§ 2-21-1 — 2-21-8)

2-21-5. Inspection and testing.

- (a) The department or a department approved certifying entity may inspect at any reasonable time any area where food or feed identified, labeled, advertised, packaged, or promoted as organic food or feed is produced, processed, stored, distributed, transported, or sold.
- (b) The department or a department approved certifying entity may require a laboratory analysis for the purpose of substantiating the standard of identity of any organic ingredient, article, commodity, or product.

History

Code 1981, § 2-21-5, enacted by Ga. L. 2000, p. 1648, § 1.

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O.C.G.A. § 2-21-6

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 21 Organic Certification and Labeling (§§ 2-21-1 — 2-21-8)

2-21-6. Rules and regulations.

- (a) The Commissioner shall promulgate rules and regulations fixing and establishing reasonable definitions and standards for organic food and feed commodities or products being produced or sold within the State of Georgia.
- (b) The Commissioner may adopt, by reference, pursuant to Chapter 13 of Title 50, known as the “Georgia Administrative Procedure Act,” regulations for production, handling, and marketing of organically produced agricultural products as set forth by the United States Department of Agriculture.
- (c) The Commissioner is authorized by rule or regulation to adopt fees which may be charged, collected, and retained by certifying entities as compensation for the services of such certifying entities under the provisions of this chapter.
- (d) The Commissioner is authorized to adopt reasonable rules and regulations necessary to carry out this chapter, to provide for the approval of certifying entities, and to provide for the certification of organic food and feed.

History

Code 1981, § 2-21-6, enacted by Ga. L. 2000, p. 1648, § 1.

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O.C.G.A. § 2-21-7

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 21 Organic Certification and Labeling (§§ 2-21-1 — 2-21-8)

2-21-7. Right of appeal.

Any person, producer, broker, distributor, or processor of an organic food or feed product which is adversely affected by any action of an approved certifying entity shall have the right to appeal to the Commissioner. Such appeal and any further proceedings shall be subject to Chapter 13 of Title 50, known as the “Georgia Administrative Procedure Act.”

History

Code 1981, § 2-21-7, enacted by Ga. L. 2000, p. 1648, § 1.

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O.C.G.A. § 2-21-8

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 21 Organic Certification and Labeling (§§ 2-21-1 — 2-21-8)

2-21-8. Penalty.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor.

History

Code 1981, § 2-21-8, enacted by Ga. L. 2000, p. 1648, § 1.

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O.C.G.A. Title 2, Ch. 23

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

CHAPTER 23 Hemp Farming

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O.C.G.A. § 2-23-1

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-1. Short title.

This chapter shall be known and may be cited as the “Georgia Hemp Farming Act.”

History

Code 1981, § 2-23-1, enacted by Ga. L. 2019, p. 1030, § 1/HB 213.

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O.C.G.A. § 2-23-2

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-2. Intent.

The intent of this chapter is to:

- (1) Promote exploration of the cultivation and processing of hemp and the potential to open up new commercial markets for farmers and businesses through the sale of hemp products;
- (2) Explore expansion of the state's hemp industry and allow farmers and businesses to begin to cultivate, handle, and process hemp and sell hemp products for commercial purposes;
- (3) Encourage and empower research into growing hemp and creating hemp products at universities and in the private sector;
- (4) Ultimately move the state and its citizens to the forefront of the hemp industry;
- (5) Balance the desire to explore the cultivation and processing of hemp with public health, safety, and welfare regarding the potential for unwanted and unlawful uses of chemical elements of hemp; and
- (6) Enable the department, licensees, and universities to promote the cultivation and processing of hemp and the commercial sale of hemp products.

History

Code 1981, § 2-23-2, enacted by Ga. L. 2019, p. 1030, § 1/HB 213.

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O.C.G.A. § 2-23-3

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > *TITLE 2 Agriculture (Chs. 1 — 23)* > *CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)*

2-23-3. Definitions.

As used in this chapter, the term:

- (1) “Commercial sale” means the sale of products in the stream of commerce at retail, at wholesale, and online.
- (2) “Cultivate” means to plant, water, grow, and harvest a plant or crop.
- (3) “Federally defined THC level for hemp” means a delta-9-THC concentration of not more than 0.3 percent on a dry weight basis, or as defined in 7 U.S.C. Section 1639o, whichever is greater.
- (4) “Handle” means to possess or store hemp plants for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or permitted to process hemp, or to possess or store hemp plants in a vehicle for any period of time other than during the actual transport of such plants from the premises of a person licensed to cultivate or permitted to process hemp or a college or university authorized to conduct research pursuant to Code Section 2-23-4 to the premises of another licensed or permitted person or to a college or university authorized to conduct research pursuant to Code Section 2-23-4; provided, however, that this term shall not include possessing or storing finished hemp products.
- (5) “Hemp” means the *Cannabis sativa* L. plant and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with the federally defined THC level for hemp or a lower level.
- (6) “Hemp products” means all products with the federally defined THC level for hemp derived from, or made by, processing hemp plants or plant parts that are prepared in a form available for legal commercial sale, but not including food products infused with THC unless approved by the United States Food and Drug Administration.
- (7) “Key participant” means a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation when such sole proprietor, partnership, or corporation is an applicant to be a licensee or a permittee. A person with executive managerial control in a corporation includes persons serving as a chief executive officer, chief operating officer, chief financial officer, or any other individual identified in regulations promulgated by the department. This term shall not include nonexecutive managers, such as farm, field, or shift managers.
- (8) “Licensee” means an individual or business entity possessing a hemp grower license issued by the department under the authority of this chapter to handle and cultivate hemp in the State of Georgia.
- (9) “Permittee” means an individual or business entity possessing a hemp processor permit issued by the department under the authority of this chapter to handle and process hemp in the State of Georgia.
- (10)
 - (A) “Process” or “processing,” except as otherwise provided in subparagraph (B) of this paragraph, means converting an agricultural commodity into a legally marketable form.
 - (B) Such term shall not include:

O.C.G.A. § 2-23-3

(i) Merely placing raw or dried material into another container or packaging raw or dried material for resale; or

(ii) Traditional farming practices such as those commonly known as drying, shucking and bucking, storing, trimming, and curing.

(11) “Research” or “researching” means experimental field, greenhouse, or laboratory activity for the ultimate purpose of developing new hemp varieties and products, improving existing hemp products, developing new uses for existing hemp products, or developing or improving methods for producing hemp products.

(12) “THC” means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid.

History

Code 1981, § 2-23-3, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 1/HB 847; Ga. L. 2021, p. 606, § 1/HB 336.

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O.C.G.A. § 2-23-4

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > **TITLE 2 Agriculture (Chs. 1 — 23)** > **CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)**

2-23-4. Required licenses; research by colleges and universities; processing of other products.

- (a) Except as otherwise provided in subsection (b) of this Code section, it shall be unlawful for:
- (1) Any person to cultivate, handle, or process hemp in this state unless such person holds a hemp grower license or a hemp processor permit issued by the department pursuant to this chapter or is employed by a licensee or permittee;
 - (2) A permittee to accept hemp for processing from any person other than a licensee or a college or university authorized to conduct research pursuant to subsection (b) of this Code section, except as otherwise provided in paragraph (4) of this subsection;
 - (3) A licensee to provide or sell hemp to any person other than another licensee, a college or university authorized to conduct research pursuant to subsection (b) of this Code section, or a permittee with whom the licensee enters into an agreement pursuant to Code Section 2-23-7, unless such person is located in a state with a plan to regulate hemp production that is approved by the Secretary of Agriculture of the United States, or otherwise in accordance with regulations promulgated by the United States Department of Agriculture, and such person is authorized to grow or process hemp in that state;
 - (4) A permittee to accept for processing any hemp grown outside of the State of Georgia, unless such hemp is grown in a state with a plan to regulate hemp production that is approved by the Secretary of Agriculture of the United States or otherwise in accordance with regulations promulgated by the United States Department of Agriculture;
 - (5) A permittee to process hemp pursuant to a hemp processor permit outside of the State of Georgia, unless such processing occurs in a state with a plan to regulate hemp production that is approved by the Secretary of Agriculture of the United States or otherwise in accordance with regulations promulgated by the United States Department of Agriculture;
 - (6) Any licensee or permittee to otherwise fail to comply with the requirements of this chapter or any applicable state or federal law or regulation;
 - (7) Any person to offer for sale at retail the unprocessed flower or leaves of the hemp plant; or
 - (8) Any person to cultivate or handle hemp in any structure that is used for residential purposes.
- (b) Colleges and universities of the University System of Georgia and institutions of higher education as defined in 20 U.S.C. Section 1001 are hereby authorized pursuant to a plan to regulate hemp production pursuant to 7 U.S.C. Section 1639p, to conduct research under an agricultural pilot program or other agricultural or academic research, including research on the cultivation and uses of hemp grown within the State of Georgia, breeding and developing new hemp varieties, seed development, consumer uses, and marketing. Pursuant to a written agreement, colleges and universities authorized to conduct research pursuant to this Code section shall also be authorized to engage third parties to assist in the conduct of such research, and such third parties may cultivate, handle, and process hemp when assisting such college or university in such research pursuant to the terms of such written agreement.

O.C.G.A. § 2-23-4

(c) It shall be lawful for a permittee to process products other than hemp products at a facility when such products are lawfully processed in the state and stored separately from hemp products.

History

Code 1981, § 2-23-4, enacted by Ga. L. 2019, p. 1030, § 1/ HB 213; Ga. L. 2020, p. 292, § 2/ HB 847; Ga. L. 2021, p. 606, § 2/ HB 336; Ga. L. 2022, p. 352, § 2/ HB 1428.

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O.C.G.A. § 2-23-5

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > *TITLE 2 Agriculture (Chs. 1 — 23)* > *CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)*

2-23-5. Procedure for licensing; fees; license requirements; limitations on licenses.

(a)

(1) Except as otherwise provided in this chapter, application for, consideration and issuance of, and revocation of hemp grower licenses issued by the department pursuant to this Code section shall be accomplished in accordance with Chapter 5 of this title, and such licenses shall otherwise be governed by such chapter.

(2) Hemp grower licenses shall be issued for one calendar year at an annual license fee of \$50.00 per acre cultivated up to a maximum license fee of \$5,000.00.

(b) Any person applying for a hemp grower license shall provide with such application to the department:

(1) A legal description and global positioning coordinates sufficient for locating fields and greenhouses to be used to cultivate and harvest hemp; and

(2) Written consent, allowing representatives of the department, the Georgia Bureau of Investigation, and other affected state and local law enforcement agencies to enter all premises where hemp is being cultivated, harvested, or handled for the purpose of conducting physical inspections and ensuring compliance with the requirements of this chapter.

(c)

(1) Upon receipt of an application for a hemp grower license, the department shall conduct a criminal background check and is authorized to obtain a federal criminal history report in accordance with paragraph (2) of this subsection for an individual or, if the applicant is a business entity, all key participants seeking to obtain a hemp grower license.

(2) At least one set of classifiable electronically recorded fingerprints of the individual applicant or, if the applicant is a business entity, one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall review the record for all individuals or key participants, as applicable.

(3) No license shall be issued to any applicant who has been convicted of a misdemeanor involving sale of or trafficking in a controlled substance or a felony or who materially falsifies any information contained in a license application.

(d)

(1) No person shall be issued more than one hemp grower license, nor shall any person be permitted to have a beneficial interest in more than one hemp grower license issued under this chapter, regardless of the degree of such interest.

O.C.G.A. § 2-23-5

(2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp grower license if the license has been held by marriage prior to the creation of any of the relationships defined in paragraph (3) of this subsection.

(3) For purposes of this subsection:

(A) The term “person” shall include all members of a licensee’s family and all corporations, limited partnerships, limited liability companies, and other business entities in which a licensee holds more than a 50 percent ownership interest; the term “family” shall include any person related to the holder of the hemp grower license within the first degree of consanguinity and affinity as computed according to the canon law and who is claimed as a dependent by the licensee for income tax purposes; and

(B) The beneficiaries of a trust shall be considered to have a beneficial interest in any business forming a part of the trust estate.

History

Code 1981, § 2-23-5, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 3/HB 847; Ga. L. 2021, p. 606, § 3/HB 336.

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O.C.G.A. § 2-23-6

Current through the 2022 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-6. Procedure for permitting; limitations on permits and interests.

- (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation of hemp processor permits issued by the department pursuant to this Code section shall be accomplished in accordance with Chapter 5 of this title, and such permits shall otherwise be governed by such chapter.
- (b) Any person applying for a hemp processor permit pursuant to this Code section shall provide to the department:
- (1) A legal description and global positioning coordinates sufficient for locating facilities for processing hemp;
 - (2) Written consent allowing representatives of the department, the Georgia Bureau of Investigation, and other affected state and local law enforcement agencies to enter all premises where hemp is being processed or handled for the purpose of conducting physical inspections and ensuring compliance with the requirements of this chapter; and
 - (3) A surety bond as described in Code Section 2-23-6.1.
- (c)
- (1) Upon receipt of an application for a hemp processor permit, the department shall conduct a criminal background check and is authorized to obtain a federal criminal history report in accordance with paragraph (2) of this subsection for an individual or, if the applicant is a business entity, all key participants seeking to obtain a hemp processor permit.
 - (2) At least one set of classifiable electronically recorded fingerprints of the individual applicant or, if the applicant is a business entity, one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall review the record for all individuals or key participants, as applicable.
 - (3) No permit shall be issued to any applicant who has been convicted of a misdemeanor involving sale of or trafficking in a controlled substance or a felony or who materially falsifies any information contained in a license application.
- (d) The department shall annually accept applications for hemp processor permits to be issued by the department.
- (e) Hemp processor permits shall be issued for one calendar year at an annual permit fee of \$25,000.00, so long as no administrative action has been taken by the department regarding such permittee under this chapter.
- (f) Issuance of any hemp processor permit shall be conditioned upon the permittee's compliance with Code Section 2-23-7 prior to initiating hemp processing activities.

(g) A permittee may also apply for and be issued no more than one hemp grower license.

(h)

(1) No person shall be issued more than one hemp processor permit, nor shall any person be permitted to have a beneficial interest in more than one hemp processor permit issued under this chapter, regardless of the degree of such interest.

(2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp processor permit if the permit has been held by marriage prior to the creation of any of the relationships defined in paragraph (3) of this subsection.

(3) For purposes of this subsection:

(A) The term “person” shall include all members of a licensee’s family and all corporations, limited partnerships, limited liability companies, and other business entities in which a licensee holds more than a 50 percent ownership interest; the term “family” shall include any person related to the holder of the hemp processor permit within the first degree of consanguinity and affinity as computed according to the canon law and who is claimed as a dependent by the licensee for income tax purposes; and

(B) The beneficiaries of a trust shall be considered to have a beneficial interest in any business forming a part of the trust estate.

History

Code 1981, § 2-23-6, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 4/HB 847; Ga. L. 2021, p. 606, § 4/HB 336.

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O.C.G.A. § 2-23-6.1

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Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-6.1. Bond requirements; breach of bond; hearing; enforcement; insufficient bond funds.

(a) Any applicant for a hemp processor permit shall make and deliver to the Commissioner a surety bond executed by a surety corporation authorized to transact business in this state and approved by the Commissioner. Any and all bond applications shall be accompanied by a certificate of good standing issued by the Commissioner of Insurance. If any company issuing a bond shall be removed from doing business in this state, it shall be the duty of the Commissioner of Insurance to notify the Commissioner within 30 days. The bond shall be in such amount as the Commissioner may determine, not exceeding an amount equal to 2 percent of the amount of hemp purchased from licensees by the permittee in the most recent calendar year; provided, however, that the minimum amount of such bond shall be \$300,000.00 and the maximum amount shall be \$1 million. Such bond shall be upon a form prescribed or approved by the Commissioner and shall be conditioned to secure the faithful accounting for and payment to licensees for hemp purchased by such permittee as well as to secure the permittee's compliance with the requirements of this chapter. Whenever the Commissioner shall determine that a previously approved bond has for any cause become insufficient, the Commissioner may require an additional bond or bonds to be given in compliance with this Code section. Unless the additional bond or bonds are given within the time fixed by written demand therefor, or if the bond of a permittee is canceled, the permit of such permittee shall be immediately revoked by operation of law without notice or hearing, and such permittee shall be ineligible to reapply for such permit for a period of four years after such revocation.

(b) Any person claiming that he or she has been damaged by a breach of the conditions of a bond given by a permittee may file a complaint with the Commissioner. Such complaint shall be a written statement of the facts constituting the complaint and must be made within 180 days of the alleged breach. If the Commissioner determines that the complaint is prima facie a breach of the bond, and the matter cannot be amicably resolved within 15 days of the filing of the complaint, the Commissioner shall publish a solicitation for additional complaints regarding breaches of the bond for a period of not less than five consecutive issues in such publications as the Commissioner shall prescribe. Additional complaints must be filed within 60 days following initial public notification of a breach of the bond. Civil actions on the breach of such bond shall not be commenced less than 120 days nor more than 547 days from the initial date of public notification of such breach of the bond.

(c) Upon the filing of such complaint in the manner provided in this Code section, the Commissioner shall investigate the charges made and at his or her discretion order a hearing before him or her, giving the complainant and the respondent notice of the filing of such complaint and the time and place of such hearing. At the conclusion of the hearing, the Commissioner shall report his or her findings and render his or her conclusions upon the matter complained of to the complainant and respondent in each case, who shall have 15 days thereafter in which to make effective and satisfy the Commissioner's conclusions.

(d) If such settlement is not effected within such time, the Commissioner or the licensee may bring an action to enforce the claim. If the licensee is not satisfied with the ruling of the Commissioner, he or she may commence and maintain an action against the principal and surety on the bond of the parties complained of as in any civil action.

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(e) If the bond or collateral posted is insufficient to pay in full the valid claims of licensees, the Commissioner may direct that the proceeds of such bond shall be divided pro rata among such licensees.

History

Code 1981, § 2-23-6.1, enacted by Ga. L. 2021, p. 606, § 5/HB 336; Ga. L. 2022, p. 352, § 2/HB 1428.

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O.C.G.A. § 2-23-7

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2-23-7. Business agreements; transportation; reimbursement for crop destruction.

(a) Every permittee shall at all times have in place written agreements with each licensee governing their business relationship. Each permittee shall provide a copy of each such agreement, and any amendments thereto, to the department within ten days of execution of each such agreement or amendment thereto.

(b)

(1)

(A) All hemp being shipped, transported, or otherwise delivered into, within, or through this state must be accompanied by documentation sufficient to prove that the hemp being shipped, transported, or delivered:

(i) Was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable; and

(ii) Does not exceed the federally defined THC level for hemp.

(B) Any person shipping, transporting, or delivering hemp must also carry a bill of lading that includes:

(i) Name and address of the owner of the hemp;

(ii) Point of origin;

(iii) Point of delivery, including name and address;

(iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp in the shipment; and

(v) Date of shipment.

(C) The person shipping, transporting, or delivering hemp must act in compliance with all state and federal laws and regulations.

(2)

(A) All hemp products being shipped into or transported within or through this state must be accompanied by documentation sufficient to prove that the hemp products being shipped or transported were produced from hemp that was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable.

(B) Any person transporting hemp products must also carry a bill of lading that includes:

(i) Name and address of the owner of the hemp products;

(ii) Point of origin;

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- (iii) Point of delivery, including name and address;
 - (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp products in the shipment; and
 - (v) Date of shipment.
- (C) The person transporting hemp products must act in compliance with all state and federal laws and regulations.
- (c) Until December 31, 2022, when a licensee disposes of a lot pursuant to Code Section 2-23-8, the permittee with whom the licensee has entered into an agreement pursuant to this Code section shall reimburse the licensee for half of the amount of the combined value of the seed, fertilizer, labor costs, and any other reasonable and customary input expenses incurred with such disposed of lot.

History

Code 1981, § 2-23-7, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 5/HB 847; Ga. L. 2021, p. 606, § 6/HB 336; Ga. L. 2022, p. 352, § 2/HB 1428.

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O.C.G.A. § 2-23-8

Current through the 2022 Regular Session of the General Assembly.

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2-23-8. Sampling and random testing of hemp.

(a)

(1) The department shall have the right, either through its own personnel or through an independent contractor as provided for in Code Section 2-23-9, to collect samples of hemp for testing as provided for in this chapter from the fields and greenhouses of all licensees. Samples shall be representative of each lot with the same global positioning coordinates. No hemp shall be harvested until such samples are collected. Such testing, and the harvesting of the hemp tested, shall be conducted in compliance with this chapter and with regulations promulgated by the department.

(2) In the event that a test sample reveals a delta-9-THC concentration of more than the federally defined THC level for hemp, the licensee's entire lot with the same global positioning coordinates shall be disposed of in compliance with this chapter and with regulations promulgated by the department.

(b)

(1) The department shall, as provided for in Code Section 2-23-9, randomly test hemp products of the facilities of all permittees. Such testing shall be conducted in compliance with this chapter and with regulations promulgated by the department.

(2) In the event that a test sample reveals a delta-9-THC concentration of more than the federally defined THC level for hemp, all related hemp products shall be disposed of in compliance with this chapter and with regulations promulgated by the department.

(3) In the event that THC is removed from hemp during processing and not subsequently returned to hemp products produced from such hemp, such THC shall be disposed of in compliance with this chapter and with regulations promulgated by the department.

History

Code 1981, § 2-23-8, enacted by Ga. L. 2019, p. 1030, § 1/ HB 213; Ga. L. 2020, p. 292, § 6/ HB 847; Ga. L. 2021, p. 606, § 7/ HB 336.

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2-23-9. Contracting for testing, certification, regulatory, and grading functions.

The department shall be authorized to enter into a contract or contracts with one or more entities to conduct the testing provided for in Code Section 2-23-8 as well as to include the certification, regulatory, and grading functions pursuant to this chapter and regulations promulgated by the department. The department shall additionally comply with all federal inspection, reporting, and auditing requirements.

History

Code 1981, § 2-23-9, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 7/HB 847.

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O.C.G.A. § 2-23-10

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2-23-10. Enforcement; corrective action plan; revocation of licenses; reporting of licensees and permittees to Attorney General.

(a) A violation of a plan authorized by Code Section 2-23-11 and approved by the secretary of agriculture of the United States by a licensee or permittee shall be subject to enforcement in accordance with this Code section.

(b)

(1) A licensee or permittee under this chapter shall be required to conduct a corrective action plan if the Commissioner determines that the licensee or permittee has negligently violated this chapter or has violated rules and regulations promulgated by the department pursuant to this chapter by:

(A) Failing to provide a legal description and global positioning coordinates sufficient for locating fields and greenhouses the licensee uses to cultivate and harvest hemp or facilities at which the permittee processes hemp;

(B) Failing to properly obtain a license or permit from the department;

(C) Producing *Cannabis sativa* L. with more than the federally defined THC level for hemp; or

(D) Otherwise negligently violating this chapter.

(2) A corrective action plan required by this Code section shall include:

(A) A reasonable date by which the licensee or permittee shall correct the negligent violation; and

(B) A requirement that the licensee or permittee shall periodically report to the Commissioner on the compliance status of the licensee or permittee with the corrective action plan for a period of not less than two calendar years after the violation.

(c) Except as provided in subsection (d) of this Code section, a licensee or permittee that negligently violates this chapter or rules and regulations promulgated by the department pursuant to this chapter shall not as a result be subject to any criminal or civil enforcement action by any government agency other than the enforcement action authorized under subsection (b) of this Code section.

(d) A licensee or permittee that negligently violates the corrective action plan under subsection (b) of this Code section three times in a five-year period shall have its license or permit issued pursuant to this chapter immediately revoked and shall be ineligible to reapply for a license or permit for a period of five years after the date of the third violation.

(e) If the Commissioner determines that a licensee or permittee has violated state law with a culpable mental state greater than negligence, the Commissioner shall immediately report the licensee or permittee to the United States Attorney General and the state Attorney General, and subsection (a) of this Code section shall not apply to the violation.

(f) Laws enacting criminal offenses, including laws provided for in Title 16, not in conflict with this chapter shall continue to be enforceable and of full force and effect.

History

Code 1981, § 2-23-10, enacted by Ga. L. 2019, p. 1030, § 1/ HB 213; Ga. L. 2020, p. 292, § 8/ HB 847.

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O.C.G.A. § 2-23-11

Current through the 2022 Regular Session of the General Assembly.

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2-23-11. Plan for regulation; approval.

(a) Within 60 days of May 10, 2019, the Commissioner, in consultation with the Governor and Attorney General, shall submit to the secretary of agriculture of the United States a plan under which the department intends to regulate hemp production and which shall include:

- (1) A practice to maintain relevant information regarding land on which hemp is produced in this state, including a legal description of the land, for a period of not less than three calendar years;
- (2) A procedure to test delta-9-THC concentration levels, by using post-decarboxylation or other similarly reliable methods, for hemp produced in this state;
- (3) A procedure to effectively dispose of products that are produced in violation of this chapter; and
- (4) A procedure to comply with the enforcement procedures outlined in Code Section 2-23-10.

(b) If the secretary of agriculture of the United States disapproves the plan, the Commissioner, in consultation with the Governor and Attorney General, shall submit to the secretary of agriculture of the United States an amended plan.

History

Code 1981, § 2-23-11, enacted by Ga. L. 2019, p. 1030, § 1/HB 213.

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2-23-12. Rules and regulations.

The department, in consultation with the Georgia Bureau of Investigation, shall promulgate rules and regulations as necessary to implement the provisions of this chapter. Such rules and regulations shall include the plan provided for in Code Section 2-23-11 upon the approval of such plan by the secretary of agriculture of the United States.

History

Code 1981, § 2-23-12, enacted by Ga. L. 2019, p. 1030, § 1/HB 213.

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