

Chapter 17. Louisiana Egg Commission

§1701. Definitions

Act—the Louisiana Egg Commission Act, being Act #441 of 1968 found in R.S. 3:551.1-551.11.

Case—a standard 30 dozen egg case.

Commission—the Louisiana Egg Commission.

Commissioner—Commissioner of Agriculture of the state of Louisiana.

Eggs—pullet and hen eggs only.

Handler and/or Dealer—any person engaged within the state as a distributor in the business of distributing eggs produced in Louisiana, or distributing in Louisiana eggs which are produced elsewhere.

Licensee—a person who holds a license issued pursuant to these rules and regulations.

Person—every person, partnership, firm, company, association, corporation or legal entity engaged in the production or the sale of eggs in Louisiana.

Producer—any person engaged in the business of producing eggs in Louisiana, either as an owner or as an officer or stockholder of a business engaged in producing eggs in Louisiana, or any person deriving a profit from such business.

Ship or Shipping—to move or cause to be moved, eggs intra-state or inter-state or foreign commerce by rail, truck, boat, airplane, or any other means.

Shipper—any person engaged in shipping or causing to be shipped, eggs intrastate or interstate or foreign commerce, whether owner, agent or otherwise.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.1 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1703. The Commission

A. Establishment and Membership. The commission shall be composed of 12 members, 10 of said members to be appointed by the governor upon the joint recommendation of the Poultry Industry of Louisiana, Inc. and/or the Louisiana Egg Council and the commissioner of agriculture. Six of the members shall be practical egg producers; four shall be actively engaged in the marketing of eggs. Not more than two members shall be employed by the same person. The remaining two members shall consist of one member of the House of Representatives and one member of the Senate, with each being appointed by the presiding officer of his respective legislative body. The commissioner of agriculture shall be an ex-officio member and shall have voting privileges.

B. Terms of Office

1. In making the initial appointments, two producers shall be appointed for terms of two years; two producers and two persons actively engaged in the marketing of eggs shall be appointed for terms of four years; two producers and two persons actively engaged in marketing eggs shall be appointed for terms of six years; thereafter, appointments shall be made for terms of six years. The members from the House of Representatives and Senate shall be appointed for terms of four years.

2. Vacancies in the membership occurring for any cause prior to the expiration of the term shall be filled by appointment of the governor, and such appointee shall have the same qualifications as provided for in the Act.

3. Each member shall subscribe to the oath of office prescribed for state officers.

C. Quorum. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission. The commissioner shall have voting privileges.

D. Remuneration. No member of the commission shall receive a salary, but each member shall receive a sum of \$15 per day for each day spent in actual attendance of meetings of the commission, and shall be given travel expenses for attending the meetings of the commission, such expenses not to exceed, however, the sum of \$0.10 per mile.

E. Corporate Form. As provided in the Act, the commission shall be deemed a corporate body and shall have the power to contract, and be contracted with, and shall have and possess all of the powers of a body corporate for all purposes necessary for fully carrying out the provisions of these rules and regulations. Official acts of the commission when properly certified by the chairman of the commission, shall be deemed prima facie evidence thereof in all courts of the state.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.2 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1705. Powers and Duties of the Commission

A. Officers. The commission shall elect a chairman and vice-chairman and such other officers as it may deem advisable. Such officers shall possess the authority and shall bear the responsibilities as set forth in §1707 hereinafter.

B. Executive Committee. The commission shall have an executive committee comprised of the chairman, vice-chairman and treasurer, and the commission may delegate to such executive committee, such duties and responsibilities as the commission deems necessary and expedient, in order to more efficiently conduct the business of the commission. The executive committee shall have authority to authorize the expenditures of money without further leave or authority from the commission as a whole, but only up to \$500 for any one item of such expense.

C. Rules and Regulations. The commission shall adopt rules and regulations and modify and amend same in accordance with these rules and regulations.

D. Personnel. The commission shall employ such personnel and engage such professional persons and services as it deems necessary to carry out the purposes of this part, and to fix and pay salaries to such personnel and the fees presented by such professional persons or for such professional services.

E. Operations of the Commission. The operations of this commission pursuant to the Act and pursuant to these rules and regulations, shall be conducted by the commission as a whole, except that the commission may delegate such authority as set forth in these rules and regulations.

F. Contracts. The commission, through its chairman, may enter into cooperative agreements with the Louisiana Department of Agriculture and Forestry and the Research and Marketing Administration of the United States Department of Agriculture for conducting consumer, producer and dealer information service in order to promote the food value of eggs, and also for instructions on grades and packs and how to evaluate their merits, in order to expand the market for Louisiana eggs. In this regard, the commission may utilize its funds made available by the Act and by these rules and regulations, and may also share expenses with the United States Department of Agriculture.

G. Books and Records. The commission shall keep books, records and accounts of all of its proceedings, and shall be open to inspection and audit by the state auditor at all times.

H. Purchase of Equipment and Supplies. The commission may purchase all office equipment and supplies necessary to conduct its operations, and it may incur all other reasonable and necessary expenses and obligations necessary to carry out the purposes of the commission as set forth in the Act and in these rules and regulations.

I. Investigations and Prosecutions. The commission shall be authorized to investigate and institute prosecution proceedings against any person for violations of the Act or of these rules and regulations.

J. License. The commission is authorized to pass upon licenses in accordance with the Act and these rules and regulations, and to suspend or revoke same as provided herein.

K. Annual Meeting. The annual meeting of the commission shall be held in conjunction with the annual convention of the Louisiana Poultry Industries, Inc., the specific time and place of such meeting to be determined by the chairman, and due notice being given thereof.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.3 and R.S. 3:551.4.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1707. Officers

A. The commission shall be authorized to elect the following officers, who in turn will have the following authority and duties.

1. Chairman. The commission shall elect a chairman, who shall be one of its members, and who shall be elected at the annual meeting of the commission. The chairman shall be the chief executive officer of the commission and shall preside at all meetings thereof. He shall have general and active management of the business

of the commission, and shall see that all orders and resolutions of the commission are carried into effect. He shall execute all contracts and other documents on behalf of the commission.

2. Vice-Chairman. The vice-chairman shall serve in the absence of the chairman, and shall be elected at the annual meeting of the commission.

3. Treasurer. The treasurer of the commission shall be elected at the annual meeting and shall keep a record of all monies received and paid out, making a report of same to the commission at each regular or special meeting at the pleasure of the commission.

4. Secretary. The secretary of the commission shall be elected by the commission at the annual meeting, but he or she need not be a member of the commission. The secretary shall attend all meetings of the commission and shall record all votes and the minutes of all proceedings, which recordings shall be permanently preserved. The secretary shall give or cause to be given notice of all meetings, and shall perform such other duties ordinarily attendant to a secretary of a corporation.

5. Other Officers. The commission may elect such other officers which may be necessary to carry out the duties of the commission in accordance with these rules and regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.4 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1709. Adoption of Rules and Regulations

A. The commission shall adhere to the following procedure in the adoption of rules and regulations, or the amendments thereto.

1. Notice. Prior to the adoption of any rule or regulation, each commission member shall be given at least 10 days' notice of the intended action. Such notice shall include a detailed description of the rules and regulations to be adopted, and the time and place where the meeting shall be held in order to adopt same. The notice shall also be published at least once in the official *Louisiana Journal*.

2. Hearing. Prior to the adoption of any such rules or regulations, the commission shall permit any interested person to submit data, views or arguments, orally or in writing, in support of or in opposition to the proposed rules and regulations. The commission shall consider fully, all written and oral submissions respecting the proposed rules or regulations, and upon request of any such interested person, the commission shall, prior to the adoption of such rules or regulations, issue a concise statement of the principal reasons for and against the adoption of same.

3. Emergency Rules. If the commission deems that an imminent peril to the public health, safety or welfare requires adoption of a rule within fewer than 10 days' notice, it may proceed without prior notice or hearing based upon any such abbreviated notice that the commission deems appropriate and necessary and, accordingly, may adopt an emergency rule. Such a rule shall not be effective for a period longer than 120 days. However, the commission may concomitantly proceed to adopt such rule or regulation in accordance with Paragraph 1 and 2 above.

4. Filing. A copy of the rules and regulations or amendments thereof adopted by the commission shall be forwarded to the office of the Secretary of State, who shall maintain a permanent register of such rules and regulations, which shall be open to public inspection.

5. Effective Date. Each rule and regulation adopted pursuant hereto shall be effective 10 days after the filing with the Secretary of State, unless the rules and regulations provide for a later date. an emergency rule, however, shall be effective immediately upon filing with the Secretary of State, provided that the commission submits with the emergency rule or regulation, a brief statement of the reasons why the rule or regulation must be adopted immediately.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.3 and R.S. 3:551.4.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1711. Collection and Disbursement of Assessments

A. Collection. The \$0.02 per case assessment on all eggs produced in Louisiana, and eggs produced elsewhere and distributed in Louisiana, as provided for in R.S. 3:551.6 shall be collected by the commissioner in such manner and method as shall be prescribed by the commissioner.

B. Disposition of Funds. Funds derived from assessments described in Subsection A shall be deposited in a special account in the state treasury which shall be designated a Louisiana Egg Commission account. These funds

shall be used by the commission in payment of all costs, expenses and obligations incurred in carrying out the business of the commission.

C. Withdrawals. Withdrawals from the special Louisiana Egg Commission account shall be made by check, signed by any two of the following: chairman, treasurer or the secretary.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.6 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1713. Books and Records

A. General. All producers, handlers and/or dealers shall maintain books and records reflecting their operations, and shall furnish to the commission, or its duly authorized and designated representative, such information as may from time to time be requested by the commission, relating to their operations affected by these rules and regulations. They shall permit the inspection during normal business hours, by the commission or its duly authorized and designated representative, such portions of their books and records as related to operations hereunder.

B. Records. Records maintained by the producers, handlers and/or dealers shall include the number of eggs produced and/or distributed each month.

C. Reports. Reports containing the above information and whatever other relevant information desired by the commissioner shall be submitted to the commissioner in such form and at such times as prescribed by the commissioner. The commission may request copies of such reports from producers, handlers and/or dealers at any reasonable time.

D. Confidential Information. Any information obtained by any person pursuant to the provisions of this Section shall be confidential and shall not be disclosed by him to any other person, save to a person with like right to obtain same, or any attorney employed by the commission to give legal advice thereon, or by court order.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.7 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1715. Licenses

A. General. Every person engaged, or who engages in the business of selling eggs to a retailer who retails eggs in Louisiana shall secure a license, which license shall be issued by the commissioner, but the application for which must first be approved by the commission.

B. Applications. Applications for licenses shall be on forms furnished by the Department of Agriculture and Forestry, which shall be submitted to the commission in duplicate original, together with the necessary application fee. Upon approval of the application, a duplicate original shall be forwarded by the commission to the commissioner, who in turn will issue the license.

C. Fee. Each license application shall be accompanied by a fee of \$10 payable to the commission.

D. Term. All licenses shall be valid for an indefinite period, or until suspended or revoked as provided hereinafter, or until canceled by the licensee.

E. Disposition of Fees. Proceeds from the license fees collected hereunder shall be transferred to the state treasurer, and credited to the special Louisiana Egg Commission Fund.

F. Suspension or Revocation. The commission shall have authority to suspend or revoke a license issued pursuant hereto for violations of the Act, these rules and regulations, and violations of the Louisiana Egg Grading and Marketing Regulations, in accordance with the procedure set forth hereinafter.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.7, R.S. 3:551.6 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1717. Adjudication of Violations

A. General. Any licensee subject to these rules and regulations, who violates any provision of the Act, these rules and regulations or Louisiana Egg Grading and Marketing Regulations, may pursuant to the procedure set forth herein below have his license suspended or revoked by the commission.

B. Notice. If the commission has reason to believe that a licensee is guilty of a violation, then unless such is waived in writing, the licensee shall be afforded a hearing after reasonable notice, which notice shall include:

1. a statement of the time, place and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
3. a factual description of the alleged violation or violations, with reference being made to the particular law, rule or regulation allegedly violated;
4. if the specific violation or violations are known at the time of the notice, or if the hearing is to be merely investigative in nature, the notice shall then recite the issues involved.

C. Hearings. Unless waived by the licensee, there shall be a hearing before the commission, presided over by the chairman or such other special chairman as the commission may choose, wherein licensee shall be given the opportunity to respond and to present evidence on all issues of fact involved and argument on all issues of law and policy involved, and to conduct such cross examination that may be required for a full and true disclosure of the facts. The hearing shall be conducted according to the following.

1. Evidence

- a. Except as provided hereinafter, evidence shall be admitted at the hearing in accordance with the Rules of Civil Procedure utilized by the civil courts of the state of Louisiana. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially thereby, any part of the evidence may be received in written form.

- b. All evidence, including records and documents in the possession of the commission shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the material so incorporated shall be available for examination by the parties before receiving same into evidence.

2. Judicial Notice. The commission may take notice of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the commission's specialized knowledge. The parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material notice, including any staff memoranda or data, and they shall be afforded an opportunity to contest the materials so noticed. The commission's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

3. Presiding Officer. The presiding officer of the hearing shall be the chairman of the commission, or such other member of the commission as the commission may designate. The presiding officer shall have the power to administer oaths, affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues.

4. Subpoenas. The presiding officer shall have the power to sign and issue subpoenas in the name of the commission, requiring attendance and giving testimony by witnesses and the production of books, papers and other documentary evidence.

5. Witness Fees. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the commission a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled, pursuant to R.S. 13:3661 and R.S. 13:3671. The presiding officer may fix additional compensation for those witnesses giving expert testimony at the hearing or by deposition.

6. Depositions. The commission and any party to a hearing under this Part may take the depositions of witnesses within or without the state in the same manner as provided by law for the taking of depositions in civil actions in courts of record. The depositions so taken shall be admissible in any proceedings affected by this Chapter. The admission of such depositions may be objected to at the time of hearing, and may be received in evidence or excluded from the evidence by the commission or presiding officer, in accordance with the rules of evidence provided herein.

7. Contempt. Whenever any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony as required, the commission may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. Said contempt proceedings shall be conducted in accordance with R.S. 49:956(5)(c).

D. Record of the Hearing

1. With reference to any hearing conducted in accordance with this Section, the commission shall compile and maintain a record of the case, which record shall include the following:

- a. all pleadings, motions and intermediate rulings;
- b. evidence received or considered, or a résumé thereof if not transcribed;
- c. a statement of matters officially noticed except in matters so obvious that a statement of them would serve no useful purpose;
- d. offers of proof, objections and rulings thereon;
- e. proposed findings and exceptions;
- f. any decision, opinion or report by the presiding officer;
- g. the commission, upon the request of any party or person, shall have prepared and furnish to that requesting party or person, a copy of the transcript or any part thereof, upon the payment of costs for same by the person so requesting it.

E. Proceedings When There Is a Lack of a Quorum

1. In the event there is a lack of a quorum of the commission at any hearing, pursuant to this Section, the proceedings shall be conducted in accordance with the rules set forth hereinabove, and shall further be subject to the following:

- a. under no circumstances shall a hearing be conducted with less than three commission members being present at the hearing;
- b. the commission members actually present at the hearing shall render a decision, and if same is adverse to the licensee, then such decision shall not be made final until a proposed order is served upon the licensee and an opportunity is afforded to the licensee adversely affected to file exceptions and present briefs, and oral argument, to the commission at a subsequent meeting. The proposed order sent to the licensee shall be accompanied by a statement of the reasons therefor, and the disposition of each issue of fact or law necessary to the proposed order prepared by the presiding officer, or by one who has read the record;
- c. if the licensee files exceptions to the proposed order or ruling of the commission, then the order shall not be made final until concurred in by at least four members of the commission;
- d. the licensee, by written stipulation, may waive the provisions of this Section, and the commission itself may choose not to apply the provisions of this Section, if the licensee fails to contest the proceedings.

F. Decisions and Orders

1. A final decision or order adverse to a licensee shall be in writing or transcribed in the record. The final decision shall include findings of fact, set forth in a concise and explicit statement of the underlying facts, supporting the findings. The decision shall also include conclusions of law.

2. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to the licensee, and to his attorney of record.

3. Any case may be disposed of informally by stipulation, agreed settlement, consent order or default.

G. Rehearings

1. The licensee adversely affected by a ruling or decision of the commission, may apply to the commission for a rehearing within 10 days from the date that the ruling or decision is mailed to the licensee. A rehearing may be granted by the commission for the following reasons:

- a. the decision or order is clearly contrary to the law and the evidence;
- b. the licensee has discovered, since the hearing, evidence important to the issues which he could not have, with due diligence, obtained before or during the hearing;

c. there is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or

d. there is other good ground for further consideration of the issues and the evidence in the public interest:

i. the licensee, in applying for a rehearing, shall petition the commission and shall set forth the grounds which justify such action;

ii. nothing in this Section shall prevent a rehearing, reopening or reconsideration of a matter by the commission on the ground of fraud practiced by the prevailing party or the procurement of the order by perjured testimony or fictitious evidence;

iii. on reconsideration, reopening, or rehearing, the matter may be heard by the commission, or it may be referred to any one or more members of the commission for decision;

iv. once a rehearing is granted, the rehearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered;

v. if an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

H. Ex Parte Consultations and Recusations

1. In the event there are multiple parties to any proceedings under this Section, no member of the commission nor employee thereof shall communicate directly or indirectly with any licensee or his representative, except upon giving notice to all parties in the proceedings, and allowing them to have the opportunity to participate.

2. No member of the commission shall sit at a hearing as provided for in this Section, if for any reason he cannot accord a fair and impartial consideration of the facts and issues involved. Such a member may recuse himself or be recused on motion by an adverse party after due hearing.

I. Suspension or Revocation

1. If, after due proceedings had as set forth hereinabove, the commission determines that there has been a violation of any provision of the Act, these rules and regulations, or the Louisiana Egg Grading and Marketing Regulations, then the license may be suspended or revoked as follows:

a. for the first offense, suspension for not more than 30 days;

b. for the second offense, suspension for not more than 60 days;

c. for the third offense, revocation of the license for not less than one year.

2. It is understood, however, that for purposes of this Section, that in order to be considered a second or third offense, the said offense must have occurred within 12 months from the previous offense.

J. Reinstatement. Once a license has been revoked as provided in Subsection I hereinabove, the licensee may make application for reinstatement of the revoked license after the expiration of the period for which the license had been revoked. The application for reinstatement shall be on the same form as the application for the initial license as set forth hereinabove, and shall be on a form provided by the commissioner. The reinstatement application shall be accompanied by a reinstatement fee of \$10.

K. Judicial Review of Adjudication. Any licensee who is aggrieved by a decision or final order of the commission as set forth hereinabove, may institute a petition for judicial review of same in accordance with R.S. 49:964-965.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.7 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1719. Separability

A. If any provision of these rules and regulations is declared invalid, or the applicability thereof to any person, circumstance or thing is held to be invalid, the validity of the remainder hereof, or their applicability thereof to any other person, circumstance or thing, shall not be affected thereby.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.