CHAPTER 17

Containers and Grades

ARTICLE 1

Standard Containers, Grades, and Brands of Farm Products

**SECTION 39‑17‑10.** Declaration of purpose.

The purpose of this article is to give authority to investigate marketing conditions and to establish and maintain standard containers, grades and State brands for fresh fruits and vegetables in the State.

HISTORY: 1962 Code Section 66‑321; 1952 Code Section 66‑321; 1942 Code Section 6662; 1932 Code Section 6662; Civ. C. '22 Section 3569; 1921 (32) 264.

**SECTION 39‑17‑20.** Division of markets shall assist in marketing farm products.

The division of markets of the extension service shall investigate the subject of marketing farm products, diffuse useful information relating thereto and furnish advice and assistance to the public in order to promote efficient and economical methods of marketing farm products and it may gather and diffuse timely information concerning the supply, demand, prevailing prices and commercial movement of farm products, including quantities in common and cold storage, and may interchange such information with the United States Department of Agriculture.

HISTORY: 1962 Code Section 66‑322; 1952 Code Section 66‑322; 1942 Code Section 6664; 1932 Code Section 6664; Civ. C. '22 Section 3571; 1921 (32) 264.

**SECTION 39‑17‑30.** Division of markets shall administer article; employment of agents.

The division of markets of the extension service is charged with the execution of the provisions of this article and may employ such agents and assistants as may be necessary, fix their compensation, define their duties and require bonds in such amount as the chief of the division of markets deems advisable, conditioned upon the faithful performance of his duties by any employee or agent. No such compensation or other expense involved in the execution of this article shall be a charge against the State.

HISTORY: 1962 Code Section 66‑323; 1952 Code Section 66‑323; 1942 Code Section 6663; 1932 Code Section 6663; Civ. C. '22 Section 3570; 1921 (32) 264.

**SECTION 39‑17‑40.** Promulgation of rules and regulations.

The division of markets may make and promulgate such rules and regulations as may be necessary to carry out the provisions of this article. Such rules and regulations shall be made to conform as nearly as practicable to the rules and regulations of the Secretary of Agriculture of the United States prescribed under any act of Congress of the United States relating to the marketing of farm products.

HISTORY: 1962 Code Section 66‑324; 1952 Code Section 66‑324; 1942 Code Section 6669; 1932 Code Section 6669; Civ. C. '22 Section 3576; 1921 (32) 264.

**SECTION 39‑17‑50.** Establishment of standards of receptacles, grades and labels; use of federal standards where applicable.

After investigation and from time to time as may be practicable and advisable, the division of markets of the extension service may establish and promulgate standards of open and closed receptacles for farm products and standards for the grade and other classification of such products by which their quantity, quality and value may be determined and may prescribe and promulgate rules and regulations governing the marks, brands and labels which may be required for receptacles for farm products for the purpose of showing the name and address of the producer or packer and the quantity, nature and quality of the product, or any of them, and for the purpose of preventing deception in reference thereto and establishing a State brand for any farm product produced in the State. Any standard for any farm product or receptacle therefor or any requirement for marketing receptacles for farm products established under authority of the Congress of the United States shall forthwith, as far as applicable, be established or prescribed and promulgated as the official standard of requirement in this State. No standard established or requirement for marketing prescribed under this article shall become effective until the expiration of thirty days after it shall have been promulgated.

HISTORY: 1962 Code Section 66‑325; 1952 Code Section 66‑325; 1942 Code Section 6665; 1932 Code Section 6665; Civ. C. '22 Section 3572; 1921 (32) 264.

**SECTION 39‑17‑60.** Packing of farm products must conform to standard grades; "Not graded" products exempted.

Whenever any standard for the grade or other classification of any farm product becomes effective under this article no person shall thereafter pack for sale, offer to sell or sell within this State any such farm product to which such standard is applicable unless it conforms to the standard, subject to such reasonable variations therefrom as may be allowed in the rules and regulations made under this article. But any farm product may be packed for sale, offered for sale or sold without conforming to the standard for grade or other classification applicable thereto if it is especially described as not graded or plainly marked "Not graded."

HISTORY: 1962 Code Section 66‑326; 1952 Code Section 66‑326; 1942 Code Section 6666; 1932 Code Section 6666; Civ. C. '22 Section 3573; 1921 (32) 264.

**SECTION 39‑17‑70.** Packing must conform to standards as to receptacles and labels; exceptions.

Whenever any standard for an open or closed receptacle for a farm product shall be made effective under this article no person shall pack for sale in and deliver in a receptacle, or sell in and deliver in a receptacle, any such farm product to which such standard is applicable unless the receptacle conforms to the standard, subject to such variations therefrom as may be allowed in the rules and regulations made under this article. But the requirements as to receptacles shall not apply to produce sold or offered for sale in less than car lots. Whenever any requirement for the marketing, branding or labeling of a receptacle for a farm product becomes effective under this article no person thereafter shall pack for sale, offer for sale, consign for sale or sell and deliver any such farm product in a receptacle to which such requirement is applicable unless the receptacle be marked, branded or labeled according to such requirement or unless such product be brought from outside the State and offered for sale, consigned for sale or sold in the original package.

HISTORY: 1962 Code Section 66‑327; 1952 Code Section 66‑327; 1942 Code Section 6666; 1932 Code Section 6666; Civ. C. '22 Section 3573; 1921 (32) 264.

**SECTION 39‑17‑80.** Inspections and classifications.

The chief of the division of markets may at any time cause such inspections and classifications to be made and such certificates to be issued as he may deem necessary to enforce the provisions of this article. Such inspections shall be made without charge only when no request is made by the grower, shipper, receiver or other party and inspection is made for the purpose of demonstration or for enforcing the provisions of this article.

HISTORY: 1962 Code Section 66‑328; 1952 Code Section 66‑328; 1942 Code Section 6666; 1932 Code Section 6666; Civ. C. '22 Section 3573; 1921 (32) 264.

**SECTION 39‑17‑90.** Designation and license of inspectors.

The chief of the division of markets may designate any competent employee or agent of the division of markets and, upon satisfactory evidence of competency, may license any other person to make, upon request, inspections and classifications of farm products in accordance with standards which have become effective under this article, both at shipping points and at destination points within the State.

HISTORY: 1962 Code Section 66‑329; 1952 Code Section 66‑329; 1942 Code Section 6667; 1932 Code Section 6667; Civ. C. '22 Section 3574; 1921 (32) 264; 1924 (33) 1118.

**SECTION 39‑17‑100.** Suspension or revocation of license.

The chief of the division of markets may suspend or revoke any license whenever, after opportunity for a hearing has been afforded to the licensee, the chief of the division of markets shall determine that such licensee is incompetent or has knowingly or carelessly failed to classify any farm product correctly in accordance with such standards or has violated any provision of this article or of the regulations made under Section 39‑17‑40. Pending investigation the chief of the division of markets may suspend a license temporarily without a hearing.

HISTORY: 1962 Code Section 66‑330; 1952 Code Section 66‑330; 1942 Code Section 6667; 1932 Code Section 6667; Civ. C. '22 Section 3574; 1921 (32) 264; 1924 (33) 1118.

**SECTION 39‑17‑110.** Manner in which inspections must be conducted.

Inspections may be made in car lots or less than car lots and of products loaded in cars or of products not in cars. When any such inspection and classification is made, blank forms of certificates shall be furnished by the division of markets to all State inspectors, to be filled out by them to accompany each carload or less than carload lot of fruits and vegetables to market or to cover any produce inspected at its destination. When State inspection is enforced, such certificate shall name the time of such inspection and the grade of fruits and vegetables and shall contain such other information as may be required by the chief of the division of markets to be shown in the certificate, together with the words, "Graded and packed under State inspection."

HISTORY: 1962 Code Section 66‑331; 1952 Code Section 66‑331; 1942 Code Section 6667; 1932 Code Section 6667; Civ. C. '22 Section 3574; 1921 (32) 264; 1924 (33) 1118.

**SECTION 39‑17‑120.** Appeals, classification of products.

The owner or person in possession of any farm product classified in accordance with the provisions of this article may appeal from such classification under such rules and regulations as the division of markets may prescribe.

HISTORY: 1962 Code Section 66‑332; 1952 Code Section 66‑332; 1942 Code Section 6668; 1932 Code Section 6668; Civ. C. '22 Section 3575; 1921 (32) 264.

**SECTION 39‑17‑130.** Inspection fees.

The fee to be charged shall be determined by the chief of the division of markets and the fee for the inspection of a car or less than a car shall in no case exceed five dollars. The chief of the division of markets may fix, assess and collect, or cause to be collected, fees for such services when they are performed by employees or agents of the division of markets. License inspectors may charge and collect as compensation for their services only such fees as may be approved by the division of markets.

HISTORY: 1962 Code Section 66‑333; 1952 Code Section 66‑333; 1942 Code Section 6667; 1932 Code Section 6667; Civ. C. '22 Section 3574; 1921 (32) 264; 1924 (33) 1118.

**SECTION 39‑17‑140.** Violation of article, or rules and regulations, or interference with inspector constitutes a misdemeanor.

Any person who violates any provision of this article, or of the rules and regulations made under this article for carrying out its provisions, who fails or refuses to comply with any of the requirements thereof or who wilfully interferes with agents or employees in the execution or on account of the execution of their duties shall be guilty of a misdemeanor.

HISTORY: 1962 Code Section 66‑334; 1952 Code Section 66‑334; 1942 Code Section 6670; 1932 Code Section 6670; Civ. C. '22 Section 3577; Cr. C. '22 Section 293; 1921 (32) 264.

**SECTION 39‑17‑150.** Penalties.

Any person convicted of a misdemeanor under this article shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment, in the discretion of the court.

HISTORY: 1962 Code Section 66‑335; 1952 Code Section 66‑335; 1942 Code Section 6671; 1932 Code Section 6671; Civ. C. '22 Section 3578; Cr. C. '22 Section 293; 1921 (32) 264.

**SECTION 39‑17‑160.** Construction.

This article shall not be construed so as to conflict with any statute of the United States regulating commerce among the several states or in any place under the exclusive jurisdiction of the United States.

HISTORY: 1962 Code Section 66‑336; 1952 Code Section 66‑336; 1942 Code Section 6672; 1932 Code Section 6672; Civ. C. '22 Section 3579; 1921 (32) 264.

ARTICLE 3

Grading of Watermelons

**SECTION 39‑17‑310.** Standards for grades of watermelons; grading is optional.

All watermelons shipped in carload lots from any point within this State as "Graded Melons" shall be graded according to the following standard, that is to say:

Grade 1 shall weigh not less than 44 pounds with car average of not less than 46 pounds;

Grade 2 shall weigh not less than 40 pounds with car average of not less than 42 pounds;

Grade 3 shall weigh not less than 36 pounds with car average of not less than 38 pounds;

Grade 4 shall weigh not less than 32 pounds with car average of not less than 34 pounds;

Grade 5 shall weigh not less than 28 pounds with car average of not less than 30 pounds;

Grade 6 shall weigh not less than 24 pounds with car average of not less than 26 pounds; and

Grade 7 shall weigh not less than 20 pounds with car average of not less than 22 pounds.

Such melons of whatever grade shall have been picked from live vines of a merchantable quality and shall be ripe, free from rotten ends, and from necks and blisters.

The grading of watermelons, as aforesaid, shall be optional with the shippers.

HISTORY: 1962 Code Section 66‑341; 1952 Code Section 66‑341; 1942 Code Section 6674; 1932 Code Section 6674; 1927 (35) 294.

**SECTION 39‑17‑320.** Carload lot shipments, grading, certificate.

The shippers of watermelons in carload lots from any point within this State, before applying to any railroad, railway, common carrier or agent thereof for a bill of lading for any such shipment, shall first certify whether or not the watermelons contained in such shipment have been graded according to the standard of grades provided in Section 39‑17‑310. Such certificate shall be made in writing on appropriate paper or cardboard, signed by the shipper in the presence of two disinterested witnesses, stating the variety, grade and number of melons contained in the car and the date the melons were picked and the date loaded or, if not graded, shall so state. The certificate shall be securely nailed to the inside of the car near the door and a duplicate of the certificate shall be furnished to the carrier's agent.

HISTORY: 1962 Code Section 66‑342; 1952 Code Section 66‑342; 1942 Code Section 6673; 1932 Code Section 6673; 1927 (35) 294.

**SECTION 39‑17‑330.** Bill of lading must refer to certificate.

The agent of the railroad, railway or other common carrier shall incorporate in its bill of lading the fact that the duplicate certificate had been delivered to him by the shipper certifying that the car contains melons of a certain grade or melons of no grade, according to the representation made in the certificate.

HISTORY: 1962 Code Section 66‑343; 1952 Code Section 66‑343; 1942 Code Section 6673; 1932 Code Section 6673; 1927 (35) 294.

**SECTION 39‑17‑340.** Unlawful acts; penalties.

(A) It is unlawful for a person to:

(1) ship, or undertake to ship, watermelons in carload lots from any point within this State in violation of the provisions of this article; or

(2) sign, or cause to be signed, a false certificate as to the grade and kind of melons shipped.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than one year, or both.

HISTORY: 1962 Code Section 63‑344; 1952 Code Section 66‑344; 1942 Code Section 6675; 1932 Code Section 6675; 1927 (35) 294; 1993 Act No. 184, Section 223, eff January 1, 1994.

Effect of Amendment

The 1993 amendment rewrote this section so as to change the maximum term of imprisonment to conform to the classification established for each offense.

ARTICLE 5

Metal Beverage Containers

**SECTION 39‑17‑410.** Certain metal beverage containers unlawful after July 1, 1980.

Notwithstanding any other provision of law, it shall be unlawful for any wholesale distributor or retailer to sell or offer to sell, after July 1, 1980, any carbonated soft drink or malt beverage in a metal beverage container which includes a part which must be detached to open the container.

Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined twenty‑five dollars for each illegal container sold.

HISTORY: 1978 Act No. 496 Section 20.