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1. Egg Grading Act

Chapter 25, Article 6, Sections 1 through 16, New Mexico Statutes Annotated, 1978
Compilation.

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25-6-1. Short title.

This act [25-6-1 to 25-6-16 NMSA 1978] may be cited as the "Egg Grading Act."

25-6-2. Definitions.

As used in the Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978]:

- A. "egg dealer" includes any person, firm, partnership or corporation that buys eggs directly from the farmers or from any other sources for the purpose of reselling them at wholesale;
- B. "cold storage eggs" means eggs which have been in cold storage for thirty (30) days or more and which meet the grades and standards of qualification set by the board of regents of New Mexico state university;

- C. "processor" includes any person, firm, partnership or corporation engaged in the process of breaking eggs for drying, freezing or for other purposes;
- D. "consumer" means any person, business establishment or institution which changes the condition of the egg in preparation for human consumption;
- E. "board" means the board of regents of New Mexico state university, the board controlling the department;
- F. "department" means the New Mexico department of agriculture;
- G. "candling" means the holding of an egg, large end up, before a light shining through an opaque shield, with an opening of about one quarter inch in diameter. Candling is best done in a darkened room, but one may obtain candling devices that may be used in average daylight;
- H. "ungraded eggs" means eggs that have not been graded according to quality or weight;
- I. "addled" or "white rot" means putrid or rotten;
- J. "moldy" means that mold or bacteria has developed in isolated areas within the shell;
- K. "black rot" means that the egg has deteriorated to an extent that the whole interior represents a blackened appearance;
- L. "blood ring" means that germs have developed to an extent that blood is formed;
- M. "stuck yolk" means that the yolk has settled to one side and becomes fastened to the shell; and
- N. "incubator reject eggs" means any eggs which have been subjected to heat for the purpose of hatching or for any other purposes whatsoever.

25-6-3. Purpose of the act.

The purpose of the Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978] is to assure that no person, firm or corporation shall sell or have in his possession with the intent to sell, offer or expose for sale, or traffic in, any egg unfit for human food, unless the same is broken in shell and then denatured so that it cannot be used for human food, if it is or has:

- A. addled or white rot;
- B. moldy;
- C. black rot;
- D. blood ring;

- E. stuck yolk;
- F. sour;
- G. green whites;
- H. musty; or
- I. incubator reject eggs.

25-6-4. Labeling, marking and advertising eggs.

It is unlawful:

A. to offer eggs for sale in any newspaper advertisement, circular, radio or other form of advertising without plainly designating in the advertisement the classification as to grade and size to which the eggs being offered for sale properly belong, when price is a factor in the advertisement. The terms "fresh eggs," "strictly fresh eggs," "hennery eggs," "new-laid eggs" or descriptions of similar import shall not be used in connection with the sale or offering for sale or advertising for sale of eggs in New Mexico that do not meet the minimum requirements for the New Mexico grade A eggs or better;

B. to sell eggs by the case without an invoice stating both the correct size and correct grade description accompanying each case of eggs delivered to a retailer or consumer. The invoice shall also include the name and address of both buyer and seller, date of sale and shall otherwise conform to the regulations set forth in the Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978].

The invoice shall be kept by the receiving dealer for a period of thirty [30] days in case the inspector calls for it;

C. to offer for sale eggs in cartons that do not have the name of the packer or distributor stamped or printed on them; or

D. to sell uncartoned eggs at retail.

25-6-5. Standards for eggs.

The New Mexico consumer grades for eggs shall be as uniform as possible to those standards established by the United States department of agriculture for consumer grades of eggs. The board shall set all standards for shell eggs for New Mexico.

25-6-6. Exemptions.

The Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978] shall not apply to any person selling eggs from his own production when produced from a flock of less than three thousand [3,000] birds, provided they are sold as ungraded.

25-6-7. Sale of ungraded eggs.

A. Retailers may sell the eggs specified in section 25-6-6 NMSA 1978 to consumers only when such eggs on hand, offered or placed on sale are clearly marked "ungraded." Ungraded eggs shall be cartoned when sold at retail.

B. Any person proposing to sell ungraded eggs shall, prior to any such sale, notify the department in writing of his intent to sell ungraded eggs specifying his location, the number of laying hens owned or in his possession, the place of production and the general area of the state in which the eggs are to be sold.

C. It is unlawful for any person selling any portion of his daily production as graded eggs to sell any portion thereof as ungraded eggs, except that any person may change his sales from graded to ungraded if he notifies the department in writing prior to such change.

D. It is unlawful for any person selling any portion of his daily production as ungraded eggs to sell any portion thereof as graded eggs, except that any person may change his sales from ungraded to graded eggs if he notifies the department in writing within five [5] days from the date of change .

25-6-8. Enforcement; administration.

The department under the guidance and control of the board shall be responsible for administering and enforcing the provisions of the Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978].

25-6-9. Egg inspection fee.

The Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978] shall be financed in part by the collection of a fee on all eggs sold to the retailer or consumer. The board shall have authority to establish the fee at their discretion, but in no case shall the fee exceed one-half cent per dozen. The fee shall be paid by the egg dealer or producer who packages the eggs for sale to the retailer or consumer. All money collected under the provisions of the Egg Grading Act shall be deposited with the New Mexico state university for the purposes of administering the provisions of that act and promoting the poultry industry and its products, and shall be expended upon the order of the board in the same manner as other funds of the New Mexico state university.

25-6-10. Payment of the inspection fee.

Each egg dealer or producer shall make quarterly reports to the department not later than thirty [30] days after the end of March, June, September and December for the previous quarter showing the number of dozen eggs sold and remitting the fee as established by the board. The department is empowered to audit the required sales record of any person, firm or corporation coming under the provisions of the Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978]. These records shall be retained for a period of one [1] year. Failure to submit the sales record on request of the department or its authorized agents is a violation of the Egg Grading Act.

Prior to selling eggs in New Mexico the egg producer or egg dealer shall file his intent to

sell eggs with the department.

25-6-11. Powers of the board and department.

A. The board is empowered to adopt standards and to prescribe rules and regulations relating to the sale of eggs as it may deem necessary to carry into effect the lawful intent and meaning of the Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978]. The definitions and rules and regulations when adopted and published by the board shall have the same force as law. Violations of the rules and regulations are subject to the same penalties as violations of the Egg Grading Act; provided, that the board shall before adopting rules or regulations first give notice of the general subject thereof by publication of a notice setting forth the substance of proposed rules or regulations and the date upon which the board will hold a hearing on the proposed rules or regulations. Notification of all proposed rules and regulations shall be mailed directly to all egg producers and dealers registered with the department. Publication shall be made once in a newspaper of general circulation in this state. Persons affected by any proposed regulation shall have the right to present to the board their objections to any proposed regulation or rule prior to its adoption.

B. The department through its authorized inspectors or agents is authorized:

1. to enter, on any business day, during the usual hours of business, any store, market or any other business or place where eggs are sold or offered for sale under the provisions of the Egg Grading Act in this state; and
2. to issue and enforce a stop sale notice or order to the owner or custodian of any lot of eggs which the board or their inspectors or agents find are in violation of the Egg Grading Act or any regulation issued thereunder, which shall prohibit any sale, barter, exchange or distribution of eggs until the inspectors are satisfied that the law has been complied with and have written a release or notice to the owners or custodian of the eggs.

25-6-12. Certification of dealers.

A. A small dealer's license is required of any person, firm or corporation who buys, sells or traffics in more than five [5] cases and less than two hundred [200] cases of eggs in any one [1] week.

B. A medium-sized dealer's license is required of any person, firm or corporation who buys, sells or traffics in over two hundred [200] cases and less than four hundred [400] cases of eggs in any one [1] week.

C. A large dealer's license is required of any person, firm or corporation who buys, sells or traffics in over four hundred [400] cases in any one [1] week.

D. The annual fees for each type of dealer are:

- (1) Small \$10.00

(2) Medium \$25.00

(3) Large \$50.00

E. For the purpose of this section a case shall consist of thirty [30] dozen eggs.

F. All licenses shall be conspicuously posted in the place of business to which they apply. The license is subject to revocation by the inspectors for cause. All licenses issued prior to the effective date of the Egg Grading Act shall expire when the act becomes effective and thereafter all licenses are renewable annually on July 1 of each year and shall expire on June 30 of the succeeding year.

25-6-13. Additional violations.

It is unlawful:

A. for any person, with the exception of New Mexico egg producers, to sell eggs as a dealer unless such a person has obtained from the department a license to be issued at a price, varying according to the type of dealer;

B. for a person to refuse to submit any eggs, containers, lot, load or display of eggs to the inspection of any enforcement officer or to refuse to stop, at the request of any enforcement officer, any vehicle transporting eggs; or

C. for a person having eggs marked in accordance with the delivery invoice to keep the eggs for such time or under such conditions after they are purchased so as to cause them to deteriorate to a lower grade or standard and then offer and expose them for sale under the mark of the original invoice grade or standard.

25-6-14. Injunction.

In addition to the remedies provided in the Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978], the department may apply to a district court for an injunction restraining any person from violating or continuing to violate any of the provisions of the Egg Grading Act or from failing or refusing to comply with any rule or regulation promulgated under that act.

25-6-15. Seizure and holding of eggs.

The department may seize or hold as evidence any container of eggs or all or any part of any pack, load, lot consignment or shipment of eggs packed, stored, delivered for shipment, loaded, transported or sold in violation of any provisions of the Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978].

25-6-16. Penalties.

A. Any person violating any provisions of the Egg Grading Act [25-6-1 to 25-6-16 NMSA 1978] or any rule or regulation promulgated by the board or their authorized inspectors is guilty of a misdemeanor and upon conviction thereof shall be imprisoned in

the county jail for not more than ninety [90] days, or shall be fined not more than one hundred dollars (\$100), or both such fine and imprisonment in the discretion of the court.

B. The licenses of third and subsequent violators may be revoked by the board.

C. In addition to all other fees prescribed by the Egg Grading Act, a penalty fee of ten percent [10%] shall be added for delinquent filing of any report or the delinquent paying of any inspection fee, and if the report and payment are not made within ten [10] days of notification of delinquency, penalty shall be twenty-five percent [25%] of the inspection fee. Persons filing a false report shall be penalized fifty percent [50%] of the amount due for inspection fees.