

CHAPTER 66

(SB 53)

AN ACT relating to eggs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 260.540 is amended to read as follows:

As used in KRS 260.540 to 260.650, unless the context otherwise requires:

- (1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs;
- (2) "Board" means the Egg Marketing Board;
- (3) "Candle" means to determine the interior quality of a shell egg based on the use of a candling light as defined in the USDA Handbook 75(7 CFR Part 56);
- (4) **"Candled and graded" means candled and graded under state and federal standards and regulations;**
- (5) "Case" means a container of thirty (30) dozen shell eggs as used in commercial practice in the United States. The term "half-case" shall mean a container of fifteen (15) dozen eggs. Case also means any other quantity packaging which is considered a wholesale pack;
- ~~(6)~~~~(5)~~ "Check" means an egg that has a broken shell or a crack in the shell, but whose membranes are intact and whose contents are not leaking;
- ~~(7)~~~~(6)~~ "Commissioner" means the Commissioner of Agriculture;
- ~~(8)~~~~(7)~~ "Consumer" means all persons purchasing eggs for consumption and not resale;
- ~~(9)~~~~(8)~~ "Department" means the Department of Agriculture;
- ~~(10)~~~~(9)~~ "Dealer" means a person, organization, or cooperative engaged in the business of buying eggs from producers or other persons, either on his own account or as an agent, and selling or transferring eggs by the case or other quantity to a wholesaler, processor, retailer, specialty egg processor, or other persons or consumers;
- ~~(11)~~~~(10)~~ "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material, or prominent stains covering more than one-fourth (1/4) of the shell surface;
- ~~(12)~~~~(11)~~ "Distributor" means any person who sells, offers, or otherwise exposes shell eggs or egg products to a wholesaler, retailer, or food service facility. "Distributor" also means any person or producer who distributes shell eggs or egg products to his or her own retail outlet, store, or food service facility;
- ~~(13)~~~~(12)~~ "Egg product" means processed and convenience forms of eggs for home and commercial use, including hard-cooked, or specialty egg products and pasteurized liquid, pasteurized frozen, or pasteurized dried egg products;
- ~~(14)~~~~(13)~~ "FDA" means the Federal Food and Drug Administration;
- ~~(15)~~~~(14)~~ "Handler" means a dealer, packer, processor, wholesaler, distributor, or retailer;
- ~~(16)~~~~(15)~~ "Inedible" means an egg that is unfit for human food in whole or in part, addled or moldy, containing black rot, white rot, blood ring, adherent yolks, or bloody whites, incubated beyond the blood ring stage, or consisting to any extent of filthy decomposed substance. This also includes any eggs unfit for human consumption due to causes other than those listed in this subsection;
- ~~(17)~~~~(16)~~ "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell;
- ~~(18)~~~~(17)~~ "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or contains a bloody white, large meat spots, a large quantity of blood, or other foreign material;
- ~~(19)~~~~(18)~~ "Lot" means any given quantity of two (2) or more eggs of a named grade, billed on an invoice or inspected by the department;

- (20)~~(19)~~ "Packer" means any person who grades, sizes, candles, and packs eggs for purposes of sale;
- (21)~~(20)~~ "Person" means any individual, firm, partnership, corporation, company, association, or any other type of business entity that traffics in, handles, or sells eggs, and shall include any trustee, receiver, or similar representative;
- (22)~~(21)~~ "Producer" means any person who exercises control over the production of eggs and disposes of eggs from the output of his or her personally owned flock;
- (23)~~(22)~~ "Retailer" means any person selling or offering eggs for sale to consumers in this state;
- (24)~~(23)~~ "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade;
- (25)~~(24)~~ "Shell eggs" means the product of the domesticated hen and any other egg from the avian species offered for human consumption in its shell form;
- (26)~~(25)~~ "Specialty egg processor" means a person who operates a plant for the purpose of breaking eggs for freezing or drying or commercial food manufacturing, and includes a person distributing his or her products from out-of-state. A specialty egg processor may also be *known*~~known~~ as a breaker or breaking plant;
- (27) (a)~~(26)~~ "Specialty egg products" means egg specialties processed for the food service industry including: wet-pack and dry-pack prepeeled hard-cooked eggs, either whole, wedged, sliced, chopped, or pickled; long rolls of hard-cooked eggs; frozen omelets; egg patties; quiche; quiche mix; frozen French toast; frozen scrambled egg mix in boilable pouches; frozen fried eggs; frozen precooked scrambled eggs; freeze-dried scrambled eggs; ultra-pasteurized liquid eggs; free-flowing frozen egg pellets; and specially coated shelf-stable hard-cooked eggs.
- (b) *"Specialty egg products" does not include eggs that are combined with other products in a convenience pack such as a meal, if the total package weight cannot be fairly divided between all items in the package allowing the egg product to have a separate calculated weight*~~or any other products using eggs~~;
- (28) *"Stop order" means an order issued by an inspector or other authorized agent of the department removing the shell egg or egg products from sale until a release or change of order has been issued by an inspector or authorized agent of the department;*
- (29) *"Ungraded and candled" means the general run of edible eggs as they come from the producer, not sized or graded, but candled;*
- (30) *"USDA" means the United States Department of Agriculture;*
- (31) ~~(27)~~"Wholesaler" means a handler who is engaged in the business of buying eggs from producers or other persons on the handler's own account and selling or transferring eggs to other dealers, wholesalers, processors, or retailers, or through other distribution channels; **and**
- (32) ~~(28)~~"Withdraw from sale order" means an order issued by an inspector or other authorized agent of the department, permanently removing shell eggs or egg products from~~retail~~ sale or distribution~~;~~
- ~~(29) "Candled and graded" means candled and graded under state and federal standards and regulations;~~
- ~~(30) "Ungraded and candled" means the general run of edible eggs as they come from the producer, not sized or graded, but candled;~~
- ~~(31) "USDA" means the United States Department of Agriculture; and~~
- ~~(32) "Stop order" means an order issued by an inspector or other authorized agent of the department removing the shell egg or egg products from retail sale until a release or change of order has been issued by an inspector or authorized agent of the department. The term of a stop order shall not be for longer than ten (10) calendar days.~~

➔Section 2. KRS 260.550 is amended to read as follows:

- (1) No person shall buy, sell, trade, traffic, or process eggs in Kentucky without a license issued pursuant to the egg marketing law, with the following exceptions:
- (a) Hatcheries purchasing eggs to be used exclusively for hatching purposes;

- (b) Hotels, restaurants, and other eating places where all eggs purchased are served in the establishment;
 - (c) Bakeries, confectioneries, and ice cream manufacturers who use eggs in a manufactured product;
 - (d) Consumers buying eggs for their own consumption; or
 - (e) Producers who sell only directly to consumers and do not exceed a sales limit of sixty (60) dozen eggs per calendar week.
- (2) Any person engaged in the act of selling shell eggs or egg products under any of the following circumstances shall have all shell eggs and egg products placed under a stop order:
- (a) Selling or otherwise marketing shell eggs or egg products without a license;
 - (b) Selling or otherwise marketing shell eggs or egg products without first submitting an emergency recall plan to the department; *or*
 - (c) Failing to remit or pay fines owed to the department~~;~~ ~~or~~
 - ~~(d) Failing to properly label shell eggs or egg products.~~
- (3) *Any person engaged in the act of selling or otherwise marketing shell eggs under the following conditions shall have those eggs placed under a stop order for:*
- (a) *Failing to have the proper labels attached, as required by KRS 260.630; or*
 - (b) *Failing to meet the tolerances of consumer grades and consumer grade quality standards, as required by KRS 260.620.*
- (4) *Any person engaged in the act of selling or otherwise marketing shell eggs or egg products shall have these shell eggs or egg products placed under a withdraw from sale order for the following reasons:*
- (a) *Ambient temperature above forty-five (45) degrees Fahrenheit for a period of four (4) hours or more; or*
 - (b) *Contamination or any condition which may render the shell eggs or egg products unfit for human consumption.*
- The withdraw from sale order shall remain in effect until such time as the disposition of the shell eggs or egg products has been determined by the department*~~[Any person natural or otherwise engaged in the act of selling shell eggs or egg products that has been cited by an inspector or agent of the department for a cause listed in KRS 260.640(8)(a) or (b) shall be placed under a withdraw from sale order until such time as the department or an authorized agent of the department rescinds the order].~~

➔Section 3. KRS 260.570 is amended to read as follows:

- (1) There shall be an egg marketing board in the Department of Agriculture. The board shall act in an advisory capacity to the Commissioner in all matters pertaining to the administration of the egg marketing law.
- (2) The board shall be composed of the Commissioner, chairman ex officio, and six (6) members appointed by the Governor from lists of names submitted by egg producing and marketing organizations within the Commonwealth approved by the Commissioner for the purpose of submitting such lists. Appointments shall be for three (3) years, except that in the case of the members first appointed, two (2) members shall be appointed for one (1) year, two (2) members for two (2) years, and two (2) members for three (3) years. All members ~~shall~~~~must~~ be residents of the Commonwealth and not more than three (3) shall be of the same political party.
- (3) The board shall meet at least once each calendar year and at such other times as the Commissioner, acting chairman, or a quorum of the board may deem necessary. The chairman shall serve without additional compensation, but the members shall receive reimbursement for their necessary traveling expenses and the sum of fifty dollars (\$50) per day for each day they attend board meetings, payable out of funds derived from administration of the egg marketing law.

➔Section 4. KRS 260.610 is amended to read as follows:

- (1) All eggs bought or sold by or to retailers, consumers, and institutional users by licensees shall be identified according to grade and size, using USDA standards and weight classes for consumer grades.

- (2) Eggs to be offered for sale for human consumption shall be handled to maintain and preserve the quality and grade in which they are to be offered for sale, including but not limited to storage, transportation, temperature, and sanitation.
- (3) *A carton of eggs with any of the following existing conditions shall be removed from a retail display on a daily basis:*
- (a) *Cracked eggs;*
 - (b) *Leaking eggs;*
 - (c) *Frozen eggs; or*
 - (d) *A combination of any of the above.*
- (4) *A retailer shall not rework or repack eggs into full cartons. Repacking shall be done only by the original packer. A retailer may, however, sell an incomplete dozen size carton provided that the quantity labeling on the carton is changed to reflect the number of eggs in the carton.*
- (5) No person shall sell, offer or expose for sale, or have in his possession for sale, for human consumption, eggs that are inedible, including eggs that are unfit for human food in whole or in part, addled or moldy, containing black rot, white rot, or blood ring, adherent yolks, or bloody whites, incubated beyond the blood ring stage, or consisting to any extent of filthy decomposed substance.
- ~~(6)(4)~~ No later than June 30 of each year, all packing plants and distributors shall submit an emergency recall plan to the department. The plan shall address policies and procedures that will be followed in the event of a recall of eggs or egg products pursuant to an inedible product designation, as described in subsection ~~(5)(3)~~ of this section. *If there have been no changes in the plan from the previous year, a statement to that effect shall be submitted in lieu of a plan on an annual basis.*

➔Section 5. KRS 260.630 is amended to read as follows:

- (1) All wholesale egg packs consisting of cases or portions of cases shall bear a legible label designating contents; quality; quantity; date of packing and *an* expiration *or best-by* date; dealer's name, address, and plant number; and size and grade of eggs. Expiration dating shall include qualifying prefixes such as "EXP," "Expiration date," "Sell by," "Not to be sold after date on end of carton," "Purchase by," "Last sale date on end of carton," or other similar language denoting stock rotation. The dates associated with these prefixes shall be calculated from the date the eggs are originally packed into the container and may not exceed thirty (30) days including the day of pack. *Best-by dating shall include* qualifying prefixes such as "Use before," "Use by," "Best before," "Best by," or other similar language *to* generally indicate the maximum time frame for expected quality. The dates associated with these prefixes shall be calculated from the date the eggs are packed into the container and may not exceed forty-five (45) days including the day of pack. The letters on the label shall not be less than *one-sixteenth (1/16)*~~one fourth (1/4)~~ inch in height.
- (2) Graded eggs shall be offered for sale in cartons or other consumer packs and shall be plainly and legibly marked as to grade;~~quality;~~ size; quantity; dealer's name, address, and plant number; and date of packing and *an* expiration *or best-by* date. Expiration dating shall include qualifying prefixes such as "EXP," "Expiration date," "Sell by," "Not to be sold after date on end of carton," "Purchase by," "Last sale date on end of carton," or other similar language denoting stock rotation. The dates associated with these prefixes shall be calculated from the date the eggs are originally packed into the container and may not exceed thirty (30) days including the day of pack. *Best-by dating shall include* qualifying prefixes such as "Use before," "Use by," "Best before," "Best by," or other similar language *to* generally indicate the maximum time frame for expected quality. The dates associated with these prefixes shall be calculated from the date the eggs are packed into the container and may not exceed forty-five (45) days including the day of pack. The marking letters shall not be less than *one-sixteenth (1/16)*~~one fourth (1/4)~~ inch in height. *The information on the label shall not be altered or replaced. The quantity may be changed in accordance with subsection (4) of Section 4 of this Act.*
- (3) Eggs offered for sale that are not in a carton shall be in a container that:
- (a) Contains all information required by this section; and
 - (b) Displays the information in legible letters at least *one-sixteenth (1/16) inch*~~one fourth (1/4) inch high~~ on a ~~label~~~~sign~~ attached to the container.

- (4) *The required label information on wholesale egg packs, cases or portions of cases shall match the required label information on the carton or other consumer pack contained therein, with the exception of the dealer's name and address.*
- (5) If eggs are packed in retail "breakaway" cartons that can be divided by the consumer or retailer into smaller units for the purpose of selling lesser amounts of eggs, each half or portion of the container shall contain full information as required by subsection (2) of this section.
- (6) *Wholesale egg packs, cases, or portions of cases shall be used only in the following manner:*
- (a) *All original label information shall be redacted completely in such a manner so that it is obvious that the container is being reused;*
- (b) *The new label shall contain all of the information otherwise required by this section; and*
- (c) *The cases shall be clean, sturdy, and intact.*
- ~~(7)(5)~~ Egg cartons cannot be reused.
- ~~(8)(6)~~ If a producer who sells directly to consumers only is using stock cartons, the cartons shall be labeled "ungraded" followed by "produced by:" (producer's name and address) and "sold directly to the consumer." This information may be *hand printed*~~handprinted~~ on the carton if it is legible and appears on the top panel of the egg carton.
- (9) *Plastic or wire crates, change baskets, or racks may be used as wholesale packs without bearing the required label information only if the required label information is visible on the carton or consumer egg pack.*

➔Section 6. KRS 260.640 is amended to read as follows:

- (1) The Commissioner may employ inspectors for the purpose of enforcing the provisions of the egg marketing law. These inspectors may examine any eggs offered or exposed for sale for human consumption at the times and places and in a manner as the Commissioner may direct.
- (2) The department shall have free access, at all reasonable hours when the business is open to the general public, to any establishment, premises, or building where eggs are processed, stored, or offered for sale, and to any vehicle used to transport or hold eggs, for the purpose of inspecting the establishment, premises, building, or vehicle or the eggs to determine compliance with the provisions of the Kentucky egg marketing law.
- (3) The department shall have free access at all reasonable hours when the business is open to the general public, to any restaurant kitchen, hotel kitchen, or kitchen of any other public eating place, including schools, hospitals, nursing homes, or other similar institutions, to determine compliance with the provisions of the Kentucky egg marketing law. If the inspector determines that inspected eggs fail to comply with the Kentucky egg marketing law or standards as established by USDA, the inspector shall take the necessary action and issue an advisory on proper procedures.
- (4) All licensees shall keep a record of all eggs handled during the license year, and any other records the department shall require. These records shall be available for examination by authorized agents of the department.
- (5) An inspector may, for the purpose of enforcing the Kentucky egg marketing law, break any form of sealing on any case or retail container. If a broken seal necessitates the repacking of the cases or containers, the original packer shall absorb all expenses involved.

~~[(6) A carton of eggs with any existing conditions as designated in paragraphs (a) to (d) of this subsection shall be removed from a retail display on a daily basis.~~

- ~~(a) Cracked eggs;~~
- ~~(b) Leaking eggs;~~
- ~~(c) Frozen eggs; or~~
- ~~(d) A combination of any of the above.~~

- ~~(7) The retailer may not rework or repack eggs into full cartons. This process may only be done by the original packer. A retailer may, however, sell an incomplete dozen provided that the quantity labeling on the carton is changed to reflect the number of eggs in the carton.~~
- ~~(8) The inspector shall, for the following cause, remove shell eggs or egg products from sale by issuing a withdraw from sale order:~~
- ~~(a) Ambient temperature above forty five (45) degrees Fahrenheit for a period of four (4) hours or more; or~~
 - ~~(b) Contamination or any condition which may render the shell eggs or egg products unfit for human consumption.~~

~~Shell eggs or egg products shall be released from the withdraw from sale order only under authorization or the direct supervision of the department as stated in the disposition section of the order.]~~

➔ Section 7. KRS 260.990 is amended to read as follows:

- (1) Any person who violates a stop order in violation of KRS 260.550(2) *or* (3) shall be fined one hundred dollars (\$100) for the first offense, be fined two hundred fifty dollars (\$250) for the second offense, and have his or her license revoked or suspended or, if the person has no license, be fined one thousand dollars (\$1,000) for each subsequent offense.
- (2) Any person who violates a withdraw from sale order in violation of KRS 260.550(4){(3)} shall be guilty of a Class B misdemeanor.
- (3) Any person who violates KRS 260.600(4), involving an untimely payment of an assessment fee, shall be charged a penalty of ten percent (10%) of the original amount and shall be required to pay this penalty in addition to the original assessment fee. The original assessment fee and penalties shall be compounded by ten percent (10%) monthly until paid in full. Any assessment fee and penalties remaining unpaid for three (3) successive months shall result in a license revocation.
- (4) Any person who fails to comply with KRS 260.610(6){(4)} shall be in violation of the egg marketing law and *may*{~~shall~~} be subject to license suspension or revocation. In the event of a suspension or revocation, a stop order shall be issued prohibiting the sale of the product. In the event that the original producer or plant is not required to be licensed because of having no direct distribution in the state and the product is distributed through other distribution channels, the producer or plant shall have its product placed under stop order and returned to the distributor. Further distribution in the state shall be prohibited until the department receives an emergency recall plan from the original producer or plant.
- (5) Any person who violates any of the shell egg labeling requirements set *forth*{~~out~~} in KRS 260.630 more than *four* (4){~~three~~ (3)} times within a calendar year shall *be fined two hundred fifty dollars (\$250) starting at the fifth offense, and an additional two hundred fifty dollars (\$250) in addition to the previous fine for each subsequent offense* {~~have his license revoked. During the revocation period, the person whose license has been revoked shall not sell, trade, traffic, or distribute eggs within the Commonwealth. A new application for consideration of reinstatement of an egg license may be submitted to the board for approval during the usual license renewal period.~~}

Signed by Governor April 11, 2008.