

1 AN ACT relating to programs administered by the Department of Agriculture.

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

3 ➔Section 1. KRS 247.234 is amended to read as follows:

4 (1) Every owner of an amusement ride or attraction business shall register the business
5 with the department annually.

6 (2) The business registration required by subsection (1) of this section shall be valid
7 until December 31 of the calendar year in which the registration is filed and shall be
8 issued upon payment of a registration fee, in accordance with administrative
9 regulations promulgated by the department.

10 (3) (a) No amusement ride or attraction shall be operated in this state without a
11 permit issued by the department to the owner of the amusement ride or
12 attraction. The permit shall be kept on site during the operation of the
13 amusement ride or attraction and viewable upon request.

14 (b) A permit shall be issued to each owner to operate the permitted amusement
15 ride or attraction in this state. A permit fee, which shall be determined by
16 administrative regulations promulgated by the department, shall be levied for
17 each amusement ride or attraction permit issued.

18 (c) The registrant shall furnish proof of liability insurance in effect on the
19 operation of each amusement ride or attraction providing coverage, with an
20 insurer authorized to issue a policy in this state, in the amount of not less than
21 one million dollars (\$1,000,000) due to all bodily injuries or deaths per
22 occurrence, or in lieu thereof, if the applicant's amusement ride or amusement
23 attraction is one that is permanently located or erected on a site in this state,
24 the applicant shall be required only to provide proof of financial responsibility
25 in the sum of one million dollars (\$1,000,000). Every registrant and
26 insurance carrier of these policies shall notify the department at least thirty
27 (30) days prior to cancellation of a policy for mobile amusement rides or

1 attractions and at least ten (10) days prior to cancellation of a policy for
2 permanent amusement rides or attractions.

3 (d) In addition to proof of adequate insurance coverage, the applicant shall
4 furnish any other information the department may require, including but not
5 limited to written notice of each intended operating site **that will be open to**
6 **the general public** to be received by the department at least fourteen (14) days
7 prior to operation at that site. In cases of emergency, notice of a change in
8 future plans may be given to the department by telephone.

9 (e) The department shall require an **annual** inspection of each amusement ride or
10 attraction before it may be operated in this state. Inspections performed by
11 department employees shall be subject to a fee based on the complexity of the
12 amusement ride or attraction and shall not be less than ten dollars (\$10) or
13 more than five hundred dollars (\$500). The cost of all inspections performed
14 by department employees shall be paid by the owner of the amusement ride or
15 attraction and **shall****[may]** be prepaid~~[, but shall be paid no later than the day~~
16 ~~of the inspection]~~. The department shall designate persons qualified by
17 education or experience, who are capable of determining amusement safety in
18 accordance with administrative regulations promulgated under KRS 247.232
19 to 247.236, as amusement safety inspectors. Any person who is not an
20 employee of the department and who is designated as an amusement safety
21 inspector shall register with the department and pay an annual registration fee,
22 which shall be determined by administrative regulations promulgated by the
23 department.

24 (f) A Kentucky **inspection tag****[permit seal]** shall be affixed to every individual
25 amusement ride or attraction, or other location as determined by the
26 department, before it may be operated in this state. **A Kentucky inspection tag**
27 **shall be valid for one (1) year from the date it was issued.**

1 to admitting the public each day the ride or attraction is intended to be
2 used; and

3 2. Maintain for at least the previous twelve (12) months a signed record of
4 the required pre-opening inspections and tests and any other pertinent
5 information as required by the department.

6 (b) The department may revoke the registration of any owner who fails to conduct
7 the required pre-opening inspections and tests or to maintain the required
8 reports.

9 (6) All unpaid civil penalties assessed upon a person for violations of KRS 247.232 to
10 247.236 shall remain in effect and shall permanently remain on record with the
11 department regardless of whether the person:

12 (a) Operates amusement rides or attractions under his or her name, another name,
13 an assumed name, or as a sole proprietorship:

14 (b) Is employed by another person operating amusement rides individually, as a
15 sole proprietorship, or as part of a partnership or corporation; or

16 (c) Operates amusement rides or attractions as a member of a partnership or
17 corporation.

18 ➔ Section 2. KRS 251.355 is amended to read as follows:

19 (1) No person shall be or act as a grain dealer in the Commonwealth without holding a
20 valid grain dealer license issued by the department.

21 (2) No person shall engage in the business of buying grain from producers for resale,
22 milling, or processing in the Commonwealth without holding a valid grain dealer
23 license issued by the department; provided, however, that no license shall be
24 required in order to buy grain from sellers who are not producers of grain.

25 (3) No person shall be or act as a grain warehouse operator in the Commonwealth
26 without holding a valid grain warehouse operator license issued by the department.

27 (4) No person shall own, control, operate, or manage any public warehouse in which

1 grain is stored for compensation in the Commonwealth without holding a valid
2 grain warehouse operator license issued by the department.

3 (5) Any person who possesses unpaid-grain for more than thirty (30) days shall be
4 deemed to be acting as a grain warehouse operator and shall be subject to the
5 licensing and financial requirements for grain warehouse operators under the
6 provisions of this chapter.

7 (6) Licenses issued by the department shall be valid for a period of time not to exceed
8 one (1) year and shall expire on June 30 each year.

9 (7) A separate license shall be required for each facility in the Commonwealth.

10 (8) The board, in conjunction with the department, shall promulgate administrative
11 regulations setting forth a schedule of fees for licensed grain warehouse operators.
12 Any changes to the schedule of fees shall be approved by a majority vote of the
13 board. The schedule of fees shall be reviewed by the board at least one (1) time
14 every four (4) years. The annual increase in board-approved license fees shall be
15 limited to five percent (5%) and shall not exceed twenty percent (20%) over any
16 four (4) year period.

17 (9) The board, in conjunction with the department, shall promulgate administrative
18 regulations setting forth a schedule of fees for licensed grain dealers. Any changes
19 to the schedule of fees shall be approved by a majority vote of the board. The
20 schedule of fees shall be reviewed by the board at least one (1) time every four (4)
21 years. The annual increase in board-approved license fees shall be limited to five
22 percent (5%) and shall not exceed twenty percent (20%) over any four (4) year
23 period.

24 (10) The department shall have the authority to issue a notice of violation and assess a
25 civil fine pursuant to KRS 251.990, or suspend or revoke a license if the board or
26 department determines any person[the licensee] has violated a provision of this
27 chapter or any administrative regulation promulgated under this chapter.

1 (11) Any person receiving a notice of violation may contest the notice by submitting to
2 the department a written request for a hearing in accordance with KRS Chapter
3 13B within thirty (30) days of receipt. Failure to request a hearing shall result in
4 the recipient's failure to exhaust administrative remedies and render the notice
5 final.

6 (12) Any person aggrieved by any final order of the department may appeal to the
7 Franklin Circuit Court or the Circuit Court of the county in which the
8 respondent is located, in accordance with KRS 13B.140.

9 (13) The department may enforce any final order by petitioning the Franklin Circuit
10 Court or the Circuit Court of the county in which the respondent is located.

11 ➔Section 3. KRS 260.600 is amended to read as follows:

12 (1) Any person requiring a license may obtain an application by calling the Kentucky
13 Department of Agriculture, Division of Regulation and Inspection. A license may
14 be renewed when accompanied by a renewal application and the required fees. A
15 license for the current year shall not be issued if there are past due license fees and
16 penalties pending for previous years. With regard to shell egg dealers, wholesalers,
17 and packers, and specialty egg processors, dealers, and wholesalers, all of the
18 previous year's assessment fees shall be current before licenses shall be renewed.
19 Any person selling eggs without the required license will be subject to having the
20 eggs removed from sale until a license has been acquired.

21 (2) A license is required of each handler of eggs selling in the Commonwealth subject
22 to the exceptions specified in KRS 260.550. The annual license fees are as follows,
23 varying for dealers, distributors, wholesalers, producers, and packers, according to
24 the average weekly volume of the month in which the licensee handled the most
25 eggs during the preceding year:

26 (a) Retailers \$20.00
27 (b) Shell egg dealers, distributors, wholesalers, producers, and packers within

1 Kentucky or out-of-state:

2 1-25 cases or 1-750 dozen \$20.00

3 26-50 cases or 751-1500 dozen \$30.00

4 Over 50 cases or over 1500 dozen \$50.00

5 (c) Specialty egg processors, dealers, and wholesalers within

6 Kentucky or out-of-state \$50.00.

7 (3) Any egg handler engaged in more than one (1) type of activity for which a license is
8 provided shall pay that license fee which is the highest of the licenses prescribed for
9 each type of activity in which he or she is engaged.

10 (4) All eggs bought or sold within the Commonwealth of Kentucky shall bear a two
11 cent (\$0.02) assessment fee for each fifteen (15) dozen shell egg lot or portion
12 thereof. Pasteurized liquid and pasteurized frozen egg products shall be assessed a
13 fee of one-half (1/2) cent (\$0.005) per ten (10) pound lot. Dried, dehydrated, hard-
14 cooked, or specialty egg products shall be assessed a fee of one cent (\$0.01) per ten
15 (10) pound lot. These assessment fees shall be assessed and paid one (1) time as
16 agreed between responsible parties as the product moves through the distribution
17 network. All reports and fees are due monthly and shall be received by the
18 department prior to the fifteenth of the month following the month of activity,
19 unless there is an agreement with the department to report and pay these fees on a
20 quarterly, semi-annual, or annual basis. In this event, the reports and fees shall be
21 received prior to the fifteenth of the month following the period of activity.

22 (5) All licenses shall expire on January 31~~April 1~~ of each year. Handlers having
23 more than one (1) place of business shall hold a license for each location. Licenses
24 shall not be transferred.

25 (6) Those that are exempt from licensing under KRS 260.550 are not exempt from
26 inspection, with the exception of consumers. [The shell eggs or egg products used
27 by these persons are not exempt from the required assessment fee.]

1 ➔Section 4. KRS 246.220 is amended to read as follows:

2 (1) No person shall in any way hinder, refuse, or defeat entrance or inspection by an
3 agent or employee of the department who is performing the duties of his or her
4 office for the purpose of combating the European corn borer under subsection (1) of
5 KRS 246.210.

6 (2) No person shall interfere in any way with the department or any of its agents or
7 employees in the inspection of premises and livestock, or in the testing of livestock
8 on any premises when the object of the inspection or testing is to determine the
9 existence of, or to combat in any way, communicable disease in livestock. No
10 person shall interfere in any way with the department or any of its agents or
11 employees in the removal from any premises of livestock found to be infected with
12 a communicable disease.

13 (3) No person shall hinder the efforts of the state entomologist or his or her agents in
14 combating Japanese beetles under KRS 246.210.

15 (4) No person shall hinder the entomologist in the performance of any of his or her
16 duties.

17 (5) No person shall interfere in any way with inspectors or assistants while they are
18 discharging their duties under KRS 250.021 to 250.111.

19 (6) No person shall hinder, prevent, or attempt to prevent any person from discharging
20 his or her duties under KRS 250.491 to 250.631.

21 (7) No person shall in any way impersonate, hinder, or obstruct the department or its
22 inspectors in the performance of their official duties under KRS ~~248.280 to~~
23 ~~248.440 or~~ 261.220.

24 ➔Section 5. KRS 260.540 is amended to read as follows:

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

26 (1) "Ambient temperature" means the atmospheric temperature surrounding or
27 encircling shell eggs;

1 (2) ~~—~~ "Board" means the Egg Marketing Board;

2 (3) ~~—~~ "Candle" means to determine the interior quality of a shell egg based on the use of a
3 candling light as defined in the USDA Handbook 75(7 CFR Part 56);

4 (3)~~(4)~~ ~~—~~ "Candled and graded" means candled and graded under state and federal
5 standards and regulations;

6 (4)~~(5)~~ ~~—~~ "Case" means a container of thirty (30) dozen shell eggs as used in
7 commercial practice in the United States. The term "half-case" shall mean a
8 container of fifteen (15) dozen eggs. Case also means any other quantity packaging
9 which is considered a wholesale pack;

10 (5)~~(6)~~ ~~—~~ "Check" means an egg that has a broken shell or a crack in the shell, but
11 whose membranes are intact and whose contents are not leaking;

12 (6)~~(7)~~ ~~—~~ "Commissioner" means the Commissioner of Agriculture;

13 (7)~~(8)~~ ~~—~~ "Consumer" means all persons purchasing eggs for consumption and not
14 resale;

15 (8)~~(9)~~ ~~—~~ "Department" means the Department of Agriculture;

16 (9)~~(10)~~ ~~—~~ "Dealer" means a person, organization, or cooperative engaged in the business
17 of buying eggs from producers or other persons, either on his or her own account or
18 as an agent, and selling or transferring eggs by the case or other quantity to a
19 wholesaler, processor, retailer, specialty egg processor, or other persons or
20 consumers;

21 (10)~~(11)~~ ~~—~~ "Dirty egg" means an egg that has a shell that is unbroken and has adhering
22 dirt or foreign material, or prominent stains covering more than one-fourth (1/4) of
23 the shell surface;

24 (11)~~(12)~~ ~~—~~ "Distributor" means any person who sells, offers, or otherwise exposes shell
25 eggs or egg products to a wholesaler, retailer, or food service facility. "Distributor"
26 also means any person or producer who distributes shell eggs or egg products to his
27 or her own retail outlet, store, or food service facility;

1 (12){(13)} "Egg product" means processed and convenience forms of eggs for home and
2 commercial use, including hard-cooked, or specialty egg products and pasteurized
3 liquid, pasteurized frozen, or pasteurized dried egg products;

4 (13){(14)} "FDA" means the Federal Food and Drug Administration;

5 (14){(15)} "Handler" means a dealer, packer, processor, wholesaler, distributor, or
6 retailer;

7 (15){(16)} "Inedible" means an egg that is unfit for human food in whole or in part,
8 addled or moldy, containing black rot, white rot, blood ring, adherent yolks, or
9 bloody whites, incubated beyond the blood ring stage, or consisting to any extent of
10 filthy decomposed substance. This also includes any eggs unfit for human
11 consumption due to causes other than those listed in this subsection;

12 (16){(17)} "Leaker" means an egg that has a crack or break in the shell and shell
13 membranes to the extent that the egg contents are exposed or are exuding or free to
14 exude through the shell;

15 (17){(18)} "Loss" means an egg that is unfit for human food because it is smashed or
16 broken so that its contents are leaking; or overheated, frozen, or contaminated; or an
17 incubator reject; or contains a bloody white, large meat spots, a large quantity of
18 blood, or other foreign material;

19 (18){(19)} "Lot" means any given quantity of two (2) or more eggs of a named grade,
20 billed on an invoice or inspected by the department;

21 (19){(20)} "Lot consolidation" means the removal of damaged eggs from consumer
22 labeled cartons and replacement of the damaged eggs with eggs of the same grade,
23 size, sell-by date, brand, lot, and source;

24 (20){(21)} "Packer" means any person who grades, sizes, candles, and packs eggs for
25 purposes of sale;

26 (21){(22)} "Person" means any individual, firm, partnership, corporation, company,
27 association, or any other type of business entity that traffics in, handles, or sells

1 eggs, and shall include any trustee, receiver, or similar representative;

2 (22)~~(23)~~ "Producer" means any person who exercises control over the production of

3 eggs and disposes of eggs from the output of his or her personally owned flock;

4 (23)~~(24)~~ "Registered lot consolidator" means a person who has successfully completed

5 a training course in lot consolidation approved by the department and who is

6 registered with the department;

7 (24)~~(25)~~ "Repacking" means changing the identity of a lot of shell eggs by removing

8 them from the original container labeled by a packer and placing them into another

9 container not labeled by the packer at the point of origin with the same grade, size,

10 sell-by date, lot number, source, and brand;

11 (25)~~(26)~~ "Retailer" means any person selling or offering eggs for sale to consumers in

12 this state;

13 (26)~~(27)~~ "Sell" means to offer for sale, expose for sale, have in possession for sale,

14 exchange, barter, or trade;

15 (27)~~(28)~~ "Shell eggs" means the product of the domesticated hen and any other egg

16 from the avian species offered for human consumption in its shell form;

17 (28)~~(29)~~ "Specialty egg processor" means a person who operates a plant for the

18 purpose of breaking eggs for freezing or drying or commercial food manufacturing,

19 and includes a person distributing his or her products from out-of-state. A specialty

20 egg processor may also be known as a breaker or breaking plant;

21 (29)~~(30)~~ (a) "Specialty egg products" means egg specialties processed for the food

22 service industry including: wet-pack and dry-pack prepeeled hard-cooked

23 eggs, either whole, wedged, sliced, chopped, or pickled; long rolls of hard-

24 cooked eggs; frozen omelets; egg patties; quiche; quiche mix; frozen French

25 toast; frozen scrambled egg mix in boilable pouches; frozen fried eggs; frozen

26 precooked scrambled eggs; freeze-dried scrambled eggs; ultra-pasteurized

27 liquid eggs; free-flowing frozen egg pellets; and specially coated shelf-stable

1 hard-cooked eggs.

2 (b) "Specialty egg products" does not include eggs that are combined with other
3 products in a convenience pack such as a meal, if the total package weight
4 cannot be fairly divided between all items in the package allowing the egg
5 product to have a separate calculated weight;

6 (30)~~(31)~~ "Stop order" means an order issued by an inspector or other authorized agent
7 of the department removing the shell egg or egg products from sale until a release
8 or change of order has been issued by an inspector or authorized agent of the
9 department;

10 (31)~~(32)~~ "Ungraded and candled" means the general run of edible eggs as they come
11 from the producer, not sized or graded, but candled;

12 (32) ~~(33)~~ "USDA" means the United States Department of Agriculture;

13 (33)~~(34)~~ "Wholesaler" means a handler who is engaged in the business of buying eggs
14 from producers or other persons on the handler's own account and selling or
15 transferring eggs to other dealers, wholesalers, processors, or retailers, or through
16 other distribution channels; and

17 (34)~~(35)~~ "Withdraw from sale order" means an order issued by an inspector or other
18 authorized agent of the department, permanently removing shell eggs or egg
19 products from sale or distribution.

20 ➔ Section 6. The following KRS sections are repealed:

21 248.005 Legislative finding and declaration on United States Department of
22 Agriculture's Tobacco Price Support Program.

23 248.010 Definitions.

24 248.015 Tobacco boards of trade -- Powers.

25 248.025 Membership of boards -- Eligibility -- Participation.

26 248.035 Membership required to operate warehouse or purchase tobacco therein.

27 248.280 Storage warehouseman to grade and weigh tobacco -- Receipts.

- 1 248.290 Warehouse license -- Fees.
- 2 248.300 Department to supervise warehouses -- Inspectors and employees.
- 3 248.310 Duties and powers of inspectors.
- 4 248.320 Auctions to be free and open.
- 5 248.330 Combination to control or interfere with bidding prohibited.
- 6 248.340 Preventing persons from bidding or purchasing prohibited.
- 7 248.350 Discrimination prohibited.
- 8 248.353 Enforcement by Attorney General.
- 9 248.355 Class action suit -- Damages, computation and distribution.
- 10 248.370 Maximum basket sales per hour -- Hours and days of operation.
- 11 248.380 Sales of vocational education tobacco.
- 12 248.391 Height and weight requirements for baskets of tobacco.
- 13 248.400 Commingling of tobacco without grower's consent prohibited.
- 14 248.410 Weighmen must be bonded.
- 15 248.420 Inducement of false report by weighman prohibited.
- 16 248.430 Notice of sales and producers to be posted -- False notice prohibited.
- 17 248.440 Daily reports to be furnished by warehouses and released by department.
- 18 248.450 Equipment used for transporting tobacco during weighing operation to be of uniform weight -- Copy of section to be posted in scale office.
- 19 248.460 Liability of warehouseman for destruction of or damage to tobacco in storage.
- 21 248.990 Penalties.
- 22 260.570 Egg marketing board -- Functions -- Membership -- Appointment -- Terms -- Qualifications -- Meetings -- Compensation.
- 23