

A Bill for an Act Relating to Chicken Eggs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There currently exists within the statutes governing chicken eggs, areas where the enforcement of quality assurance is weak. Revision of the statutes should be made to assure that the department of agriculture can continue to assist the industry in maintaining a quality product.

Producers of eggs can currently sell eggs of their own production off of the farm, at open markets, swap meets, roadside or in retail stores owned by them, without labeling the eggs as required for other retailers of eggs. This could lead to abuse and is unfair to other retailers. Sales on the farm should continue to be exempt from labeling requirements.

The provisions for the marking of imported eggs tend to insure that imported eggs are not falsely marketed as local eggs. The current statute is, however, overly restrictive and in practice unenforceable. The current practice of shipping eggs in sealed container vans protects the integrity of the lot of imported eggs until the time of inspection. To keep abreast with current transportation and marketing practices, the specific requirements for marking imported eggs and enforcement should be contained in rules of the department of agriculture.

The current procedure for imposing fines for violating the marking requirements requires criminal action. The prosecutor's office has not been able to handle requests for assistance in prosecuting violators due to their heavy load of cases. The cumbersome criminal procedure in order to assess fines greatly reduces the effectiveness of the department of agriculture to assure compliance with the law. It is further evident that the level of criminal fines contained within the law has been in effect for many decades and needs to be revised to be consistent with the present penalties imposed for misdemeanors.

SECTION 2. Section 147-74, Hawaii Revised Statutes, is amended to read as follows:

"§147-74 Grading standards and regulations. Subject to chapter 91, the department of agriculture may make rules [and regulations] with respect to:

- (1) Sale and transportation for sale of eggs for human consumption;
- (2) Specific grades or standards of quality, condition and size or weight classes which shall conform when practical to those established by the United States Department of Agriculture as local conditions will permit;
- (3) Inspection and classification;
- (4) Assessment and collection of fees for requested certification as to grade, standard of quality, condition, and size or weight classes;
- (5) Labeling of containers of imported and locally produced eggs[;] and marking of individual imported eggs as to origin;
- (6) Seller's invoice for sale of eggs;
- (7) Records of imported shell eggs of foreign origin;

- (8) Methods of determining egg quality, which shall not include recandling or any other method applied to eggs in interstate commerce which is discriminatory or impairs that commerce in any way or requires a cost increase of eggs in interstate commerce;
- (9) Enforcement of this part and of the rules [and regulations promulgated] adopted under this part."

SECTION 3. Section 147-75, Hawaii Revised Statutes, is amended to read as follows:

"§147-75 Notice of grade and size; designation of origin of imported eggs. It shall be unlawful for any person to sell, or offer to sell, or expose for sale to a consumer, any eggs, other than those of his own production at the place of production, intended for human consumption, without notifying, by suitable sign or label, the person purchasing or intending to purchase the same whether the same are imported from the mainland United State or foreign countries or of island production, and the exact grade or quality and the size or weight of the eggs, according to the standards prescribed by the department of agriculture.

The word "island" shall be used to designate the geographic origin of eggs produced in this State.

[In the case of eggs] Eggs imported from the mainland United States or foreign countries[, regardless of the person producing the same, each egg so imported] shall be individually marked [in clear and plain letters, of not less than twelve point type, the letters "U.S.", if the egg was produced in the mainland United States, or the name of the country, if the egg was produced in a foreign country, before the eggs may be removed from any dock or landing, and no crate or container containing the] as to origin. Imported eggs shall not be removed from any dock or landing without permission of the department of agriculture and shall not be processed, sold, or offered for sale until the consignee thereof has been furnished with a certificate [of] from the department of agriculture certifying that the eggs contained in the shipment in which the eggs arrived are marked as provided in this section[;] and rules of the department of agriculture; provided[,] that eggs which are preserved with an outer covering of ashes and salt need not be marked as herein provided."

SECTION 4. Section 147-79, Hawaii Revised Statutes, is amended to read as follows:

"§147-79 Penalties. Every person who violates this part shall be fined not more than [\$100 for the first offense; not more than \$200 for the second offense; not more than \$300] \$1,000 or imprisoned not more than [ninety days for the third and subsequent offenses.] one year, or both."

SECTION 5. Chapter 147, Part V, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§147- Administrative penalties. The department of agriculture may, after notice and hearing, fine any person who violates this part or any rule adopted under this part, not more than \$1,000 for each separate offense. Each day or instance of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action.

§147- Remedies and penalties not exclusive. The penalties and remedies provided in this part with respect to any violation of this part shall not be deemed exclusive of each other or of other civil or criminal rights, remedies, or penalties provided or allowed by law with respect to any such violation.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 7. This Act shall take effect upon its approval with the exception of amendments to section 147-75, Hawaii Revised Statutes, which shall take effect 180 days after approval or upon adoption of rules of the department of agriculture, whichever comes first.

(Approved June 6, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.