

This Act has "Not in Force" sections. See the Table of Legislative Changes.

## **AGRICULTURAL PRODUCE GRADING ACT** [RSBC 1996] CHAPTER 11

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### Definitions

#### 1 In this Act:

"establishment" means

- (a) an abattoir, slaughterhouse, packing house or other place where livestock is slaughtered,
- (b) a place where produce is prepared for food,
- (c) a dairy farm or a dairy plant, or
- (d) a hatchery

and includes an establishment designated by the minister that is subject to the Canada Agricultural Products Act;

"game" has the same meaning as in a regulation made under the Animal Health Act;

"grade" means a grade established by regulation;

"inspector" means an inspector referred to in the Ministry of Agriculture and Food Act and includes a person designated by the minister who is a grader or an inspector under the Department of Agriculture Act (Canada) or the Canada Agricultural Products Act;

"livestock" means cattle, hogs, sheep, game or any other animal designated by regulation;

"poultry" means domestic fowl, guinea fowl and pigeons;

"produce" means livestock, fur bearing animals raised in captivity, milk, milk products, poultry, eggs, fruit, vegetables, honey and anything derived from them or designated by regulation.

#### Application of Act

2 This Act applies to produce grown, slaughtered, produced, kept, sold or offered for sale or consumption in British Columbia and for which a system of grading is established under this Act.

#### Power to exempt from application of Act

3 The minister may by order exempt a person or establishment from a provision of this Act or the regulations.

#### Power to revoke and suspend licences

4 (1) The minister may revoke or suspend a licence of a person who contravenes this Act or the regulations.

(2) An appeal lies from refusal to issue or renew or from the revocation or suspension of a licence to the Provincial board under the Natural Products Marketing (BC) Act.

(3) The board may hear the appeal and has the same powers in relation to the appeal as if it were hearing an appeal under the Natural Products Marketing (BC) Act.

#### Produce to be available for examination

5 A seller, purchaser, shipper or transporter of produce must make available for examination, marking and grading under the regulations all produce in the person's possession or under the person's control.

#### Powers of inspector

6 For the purpose of carrying out an inspector's duties under this Act, an inspector may do any or all of the following:

- (a) enter any land, building or conveyance;
- (b) close by order part or all of an establishment for a period of time the inspector considers necessary;
- (c) delay a shipment or stop a conveyance in which the inspector believes there is produce;
- (d) detain produce, and the conveyance, if any, at the owner's risk and expense for further examination, to obtain compliance with this Act or for prosecution, and direct them to a place designated by the inspector;
- (e) obtain a sample of produce, at the owner's expense, for examination purposes;
- (f) require the owner, occupier or person in charge of any land, building or conveyance to give the inspector all reasonable assistance in a lawful examination, to answer all reasonable questions and to produce records relating to the examination;
- (g) require the owner at the owner's expense to return detained produce to the place from which it was moved.

#### Duties of inspector

7 (1) An inspector must do the following:

- (a) grade and mark produce in accordance with this Act and the regulations;
- (b) notify the owner or other person who was in possession of detained produce immediately by telephone, telegram or other means appropriate to the circumstances;
- (c) produce evidence of the inspector's appointment on request.

(2) An inspector may decline to examine produce found in a place that the inspector considers unsanitary or unsuitable for examination purposes.

#### Detained produce

8 The minister may direct the disposition of detained perishable produce before trial.

#### Misrepresentation of grade

9 The grade of produce is deemed to be misrepresented if

- (a) the produce is below the standard for the grade applied to it,
- (b) the produce is in a container from which all grade, brand, examination or standard of quality marks applicable to earlier contents of the container have not been completely removed or obliterated, or
- (c) the produce, or container, label, picture, sketch or document purporting to apply to it, bears a statement or device that is false or misleading.

#### Offences

10 A person who does any of the following commits an offence:

- (a) knowingly interferes with an inspector in the lawful exercise of the inspector's powers or duties;
- (b) knowingly makes, participates in or assents to the making of, a false or deceptive statement to an inspector during the lawful exercise of the inspector's powers or duties;
- (c) without an inspector's approval, moves produce that has been detained by an inspector;
- (d) ships, transports or sells in British Columbia produce that has not been examined, graded, marked or packed according to the regulations or, unless permitted by the regulations, is below the minimum grade for that produce;
- (e) represents ungraded produce as graded;
- (f) misrepresents the grade, class or origin of produce or the contents of a container;
- (g) alters or obliterates, in a manner not permitted by the regulations, a wrapper, label or mark on produce that has been examined or graded, or on its container;
- (h) employs a person whose licence is suspended or cancelled to ship or transport produce in respect of which the person's licence was suspended or cancelled.

#### Officers of corporation

11 An officer, director, employee or agent of a corporation who directed, authorized, assented to or participated or knowingly acquiesced in the commission of an offence by a corporation is party to the offence.

#### Burden of proof

12 In a prosecution it is not necessary to prove that produce was produced in British Columbia, but if the defendant alleges that the produce was not produced in British Columbia the burden of proof is on the defendant.

#### Penalty

13 (1) A person who is convicted of an offence under this Act is liable to a fine of not more than \$2 000, and for a second or subsequent offence to a fine of not more than \$2 000, or imprisonment for not more than 6 months, or both.

(2) The court may order that

- (a) detained produce be returned to the owner or forfeited to the government for disposition by the minister, or
- (b) any proceeds from the disposition of detained perishable produce be returned to the owner or forfeited to the government.

#### Power to make regulations

14 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) respecting the establishment of a system of grading and marking for any class of produce;
- (b) respecting the standards of quality and grade names for each grade established;
- (c) respecting the examination, grading, packaging, packing, marking, handling, selling, purchasing, shipping, transporting and advertising of produce in British Columbia;
- (d) respecting reports and records to be made or kept, including the manner of identifying producers of ungraded produce sold or shipped;
- (e) incorporating by reference of all or part of a code, standard or regulation, made under the Canada Agricultural Products Act;
- (f) respecting the licensing of any class of sellers, purchasers, shippers and transporters of produce;
- (g) respecting bonding, under the Bonding Act, of an applicant for a licence;
- (h) respecting fees for licences and for examination of produce;
- (i) respecting the sanitation of places where produce is kept;
- (j) respecting the powers and duties of inspectors;
- (k) for any class of produce, prescribing the areas of British Columbia in which this Act or the regulations do not apply.

(3) If produce is sold at a price based on a measured unit, the regulations may do any or all of the following:

- (a) prohibit the use of specified measuring devices;
- (b) specify the size, weight and type of equipment to be used with measuring devices;
- (c) prescribe qualifications for an operator of measuring devices;
- (d) establish rules for measuring;
- (e) prescribe the records to be kept and the identifying documentation for measured produce.