

Law and Regulation Changes in Handling and Marketing of Perishable Commodities

The Texas produce industry contributes an estimated \$1 billion annually to the state's economy. Texas produce is grown from the Rio Grande Valley up to the High Plains and from East Texas to the Trans-Pecos. A wide variety of Texas farm fresh fruits and vegetables nourish Texans and the Texas economy, enabling producers and the state to continue to be recognized leaders in the global marketplace. Recent changes to laws and regulations for the Handling and Marketing of Perishable Commodities program will result in efficient use of department resources and will provide greater protection and assistance to producers that do not receive payment for produce sold to a licensee or a person required to be licensed with the Texas Department of Agriculture.

Changes in Law

Senate Bill 1016 (SB 1016) during the 81st Legislative Session amended Texas Agriculture Code, Chapters 101 and 103, related to produce transactions the Handling and Marketing of Perishable Commodities Program. Changes to the law include:

- Elimination of the cash dealer license category.
- Authorization to file a claim against a person who is required to be licensed and who is not licensed at the time of the produce transaction.
- Increased time limit for filing a claim against the Produce Recover Fund.
- Increased amount that may be paid from the Produce Recovery Fund.
- Clarification and revisions for required reimbursement to the Produce Recovery Fund.

Changes in Regulations

The following rule changes to Texas Administrative Code, Chapter 14 will become effective September 1, 2009 for produce transactions.

- Elimination of the fees and license for a cash dealer. (a person who buys Texas grown perishable commodities in United States currency before or at the time of delivery or taking possession).
- Clarification of the definition of "citrus fruit", to now include lemons, limes, and tangerines along with oranges and grapefruit.
- Elimination of the requirements for citrus proof of ownership for a producer and their employees when citrus fruit is being hauled from the farm or grove to market or the first place of processing.
- Specification of the timing in which the department may initiate proceedings to cancel a license for a person who fails to reimburse and or fails to agree in writing to reimburse the Produce Recovery Fund.
- Amendment to the eligibility requirements for filing a claim against the Produce Recovery Fund by now allowing claims to be filed against a person who are required to be license (in addition to those who are licensed).
- Establishment of a two-year period of eligibility, from the date a payment was due, for filing a claim.
- Established that produce claims against a licensee on or after September 1, 2009 may be paid in full, if the claim is \$50,000 or less.

- Establishes that produce claims against a person required to be licensed at the time of the transaction and is not licensed on or after September 1, 2009 shall not exceed 80% of the total claim.
- Establishes that if a person is not licensed on the date the transactions forming the basis of the claim occurred but is required to be licensed, the person shall pay the fund one and one-half times the amount of the claim paid by the Fund, upon issuance of a final determination from the department or the Board.