

## CHAPTER 504

## SPECIALIZED AGRICULTURAL PRODUCT LABELING

## PART I PRODUCE (ss. 504.011-504.014)

## PART II ORGANIC FARMING AND FOOD (ss. 504.21-504.36)

## PART I

## PRODUCE

- 504.011 Short title.  
 504.012 Label marking permitted; removal prohibited.  
 504.013 Penalties.  
 504.014 Enforcement.

**504.011 Short title.**—This part shall be known and may be cited as the "Produce Labeling Act of 1979."

**History.**—s. 1, ch. 79-121; s. 2, ch. 90-322.

**504.012 Label marking permitted; removal prohibited.**—

(1) All producers, growers, and shippers of fresh fruits and vegetables and bee pollen and honey in this state shall be permitted to mark each individual fruit or vegetable, package of bee pollen, or package of honey in a conspicuous place as legibly, indelibly, and permanently as the nature of the fruit or vegetable, package of bee pollen, or package of honey will permit, in such manner as to indicate to an ultimate purchaser that the product was produced in Florida. Any fresh fruit or vegetable, package of bee pollen, or package of honey, including any package containing foreign honey blended with domestic honey, produced in any country other than the United States and offered for retail sale in Florida shall be marked individually in a conspicuous place as legibly, indelibly, and permanently as the nature of the fruit or vegetable, package of bee pollen, or package of honey will permit, in such manner as to indicate to an ultimate purchaser the country of origin. Markings shall be done prior to delivery into Florida.

(2) All retail vendors engaged in the business of selling products labeled or identified as to origin shall be prohibited from willfully and knowingly removing such labels or identifying marks.

**History.**—ss. 2, 3, ch. 79-121; s. 387, ch. 81-259; s. 2, ch. 83-14.

**504.013 Penalties.**—Any person, firm, or corporation engaged in the business of the retail vending of fresh fruits, fresh vegetables, bee pollen, or honey who willfully and knowingly removes any labels or identifying marks from fruits, vegetables, bee pollen, or honey so labeled is guilty of a noncriminal violation as defined in s. 775.08(3) and upon conviction shall be punished as provided in s. 775.082(5) by a civil fine of not more than \$500.

**History.**—s. 4, ch. 79-121; s. 3, ch. 83-14.

**504.014 Enforcement.**—The Department of Agriculture and Consumer Services shall be responsible for enforcing the provisions of this part.

**History.**—s. 5, ch. 79-121; s. 3, ch. 90-322.

## PART II

## ORGANIC FARMING AND FOOD

- 504.21 Short title.  
 504.22 Purpose.  
 504.23 Definitions.  
 504.24 Department's duties and responsibilities.  
 504.25 Certain acts prohibited.  
 504.26 Certification of organic food.  
 504.27 Duties of certifying agent.  
 504.28 License and fee.  
 504.29 Organic food standards.  
 504.31 Organic food advisory council.  
 504.32 Rulemaking authority.  
 504.33 Inspection, sampling, analysis, and enforcement.  
 504.34 Penalties; duties of law enforcement officers; injunctive relief.  
 504.35 Labeling and advertisement.  
 504.36 Disposition of fees, fines, and penalties.

**504.21 Short title.**—This part shall be known as the "Florida Organic Farming and Food Law."

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

**504.22 Purpose.**—The purpose of this part is to provide a regulatory framework to protect consumers, producers, and retailers who desire to purchase, market, or produce organic foods as described in this part, as well as to protect conventional agriculture and organic agriculture against false labeling, misleading advertising, and fraudulent practices in the marketplace.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

**504.23 Definitions.**—For the purposes of this part, the following terms shall have the following meanings:

(1) "Organic farming" means a food production system based on farm management methods or practices that rely on building soil fertility by utilizing crop rotation, recycling of organic wastes, application of unsynthesized minerals, and, when necessary, mechanical, botanical, or biological pest control.

(2) "Organic food" means a food which is labeled as organic or organically grown and which has been produced, transported, distributed, processed, and packaged without the use of synthetic pesticides, synthetically compounded fertilizers, synthetic growth hormones, or artificial radiation and which has been verified by a certifying agent as complying with all provisions of this part and rules adopted under this part.

(3) "Certifying agent" means an independent third party whose certifying standards meet or exceed the minimum guidelines set by nationally recognized grower groups, such as the Organic Food Producers Associa-

tion of North America, and who is licensed by the department to certify foods as organic.

(4) "Certified" means any food that is verified by a certifying agent as being produced in accordance with this part and rules adopted under this part.

(5) "Synthetic" means a material that is manufactured chemically, by synthesis, from its elements or from other chemicals, as compared to a material found in nature.

(6) "Department" means the Department of Agriculture and Consumer Services.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

#### **504.24 Department's duties and responsibilities.**—

The department shall have the authority to enforce the provisions of this part, enter into reciprocity agreements with other states' departments of agriculture, and require records to be maintained by the certifying agent. The department shall work with nationally recognized grower groups, such as the Organic Food Producers Association of North America, in formulating its policies. The department, in implementing chapter 571, may implement a program to promote organically produced Florida agricultural products.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

**504.25 Certain acts prohibited.**—The following acts, or the causing thereof knowingly, are prohibited:

(1) The certification of food as organic by any certifying agent without a license issued by the department, or the certification of any food in violation of the provisions of this part and rules adopted under this part.

(2) The labeling, advertising, or otherwise representing of food to be organic by any producer, handler, distributor, or retailer, unless the food complies with all of the provisions of this part and rules adopted under this part.

(3) The selling or offering for sale of food as organic which does not comply with all of the provisions of this part and rules adopted under this part.

(4) The buying, selling, or offering for sale of any organic food by any handler, distributor, or retailer who has not notified the department.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

**504.26 Certification of organic food.**—Any producer who sells or intends to sell organic food shall make application to a certifying agent for inspection and certification in accordance with requirements of this part and rules adopted under this part.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

**504.27 Duties of certifying agent.**—The duties of a certifying agent shall include, but not be limited to:

(1) Inspecting and verifying that all certification requirements have been met.

(2) Keeping all records necessary to document that food certified was produced, processed, stored, manufactured, and transported in accordance with all certification requirements of this part.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

#### **504.28 License and fee.**—

(1) Prior to certifying food as organic, a certifying agent shall make application to the department for a

license. Such application shall be on a form provided by the department and shall be accompanied by an annual license fee as established by rule of the department. The fee shall be sufficient to cover the costs of administering this part. Upon approval of the application by the department, a license shall be issued. Such licenses shall expire each June 30th. Reapplication is required for renewal.

(2) Before buying, selling, or offering for sale any organic food, any handler, distributor, or retailer shall notify the department in a form and manner as required by the department. The term "retailer" as used in this part shall not include food service establishments licensed pursuant to chapter 509.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429; s. 47, ch. 95-144.

**504.29 Organic food standards.**—Food shall be certified as organically grown when all the following conditions are met:

(1) The food is produced without the use of artificial radiation, synthetic pesticides, synthetic plant or soil amendments, or synthetically compounded fertilizers.

(2) In the case of perennial crops, the food is grown in soil or growth medium free of the application of synthetic pesticides, synthetic soil and plant amendments, and synthetic fertilizer materials, for 3 years prior to harvest.

(3) In the case of annual crops and 2-year crops, the food is grown without the use of synthetic pesticides, synthetic soil and plant amendments, and synthetic fertilizer materials, for 3 years prior to planting.

(4) There are no residues of synthetic pesticides, except for residues resulting from environmental contaminants or drift. These residues shall be no greater than 1 percent of the tolerances or guidelines established by the United States Environmental Protection Agency or the United States Food and Drug Administration, or both. The department shall take as its guideline the federal rules in effect as of February 1, 1990.

(5) In the case of meat, poultry, fish, or other animal, each is produced with certified organic feed and supplements throughout the life of the animal and without the use of any chemical or drug to stimulate or regulate growth or tenderness and without any drugs or antibiotics administered or introduced to such animal by injection or ingestion, from birth to slaughter, except for treatment of a specific disease. Drugs or antibiotics may not be administered or introduced to the animal within 120 days of the slaughter of the animal.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

#### **504.31 Organic food advisory council.**—

(1) ORGANIZATION.—There is created within the department the organic food advisory council to consist of nine members appointed by the Commissioner of Agriculture for 4-year staggered terms. The membership shall include a representative of the Florida Certified Organic Growers and Consumers, a representative of the Florida Fertilizer and Agrichemical Association, two producers of organic food, two retailers of organic food, one handler-broker of organic food, and two consumer representatives who are not associated with the commercial production of agriculture. Initial appointments of council members shall be three for a term of

4 years, two for a term of 3 years, two for a term of 2 years, and two for a term of 1 year.

(2) PROCEDURE.—

(a) The members of the council at their first meeting shall organize by electing a chairman, a vice chairman, and a secretary, and shall adopt rules of procedure governing their deliberations. The terms of such officers shall be for 1 year.

(b) The council shall meet at the call of its chairman, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules, but at least once a year.

(c) A majority of the members of the council constitutes a quorum for all purposes and an act by a majority of the quorum at any meeting constitutes an official act of the council.

(d) Members of the organic food advisory council shall receive no compensation for their services, but are entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061.

(3) RESPONSIBILITIES.—The responsibilities of the organic food advisory council are to:

(a) Formulate and recommend to the Commissioner of Agriculture rules and policies governing the business of organic food production by studying and evaluating organic food issues.

(b) Review and make recommendations to the Commissioner of Agriculture on each applicant for a license as a certifying agent.

(c) Formulate and recommend to the Commissioner of Agriculture actions and policies to promote organic products.

**History.**—ss. 1, 5, 6, ch. 90-322; s. 1, ch. 91-275; s. 4, ch. 91-429.

**504.32 Rulemaking authority.**—The department is authorized to prescribe and adopt all reasonable rules which are needed to implement, make specific, and interpret the provisions of this part in a manner consistent with those of nationally recognized organic grower groups, such as the Organic Food Producers Association of North America, after such notice as may be required by chapter 120.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

**504.33 Inspection, sampling, analysis, and enforcement.**—For the purpose of determining if a food labeled as organically grown was certified by a licensed certifying agent and was produced, transported, distributed, processed, and packaged without the use of synthetic pesticides, synthetically compounded fertilizers, synthetic growth hormones, or artificial radiation and in compliance with the rules adopted under this part, representatives of the department shall have free access at all reasonable hours to any field, storage building, warehouse, processing establishment, retail store, or vehicle where organic food is produced, packaged, processed, stored, transported, or offered for sale. The department may collect, analyze, or have analyzed such samples as may be necessary for enforcement. The department or its agents may examine, at the place or places of business of the applicant for certification or the certifying agent, the ledgers, books of accounts, memoranda, and other documents which relate to the foods involved, and may take testimony thereon under oath.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

**504.34 Penalties; duties of law enforcement officers; injunctive relief.**—

(1) The department may enter an order imposing one or more of the following penalties against any person who violates any of the provisions of this part or the rules promulgated under this part or who impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the department from performing its duty in connection with the provisions of this part:

(a) Issuance of a warning letter.

(b) Imposition of an administrative fine, by the commissioner, of not more than \$5,000 per occurrence after the issuance of a warning letter.

(c) Revocation or suspension of a license issued to a certifying agent.

(2) A person who is convicted of a violation of this part is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Each state or county law enforcement officer shall make an arrest for violation of this part when the officer is notified of the violation by the department.

(4) Nothing in this part shall be construed as requiring the department to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the part when it believes that the public interests will be best served by the imposition of one or more of the penalties set forth in this section.

(5) The department is hereby authorized to apply for, and the court may grant upon sufficient evidence, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this part, notwithstanding the existence of other remedies at law, such injunction to be issued without bond.

(6) When the department has cause to believe any organic food is in violation of any of the applicable provisions of this part or rules promulgated under this part, it may issue and enforce a written or printed stop-sale, stop-use, removal, or hold order warning to the possessor not to dispose of the organic food in any manner until written permission is given by the department or a court of competent jurisdiction. The department shall release the organic food so withdrawn when the provisions and rules have been complied with and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within a reasonable time, the department shall begin proceedings for condemnation.

(7) Any organic food not in compliance with the applicable provisions of this part or rules adopted under this part is subject to seizure on complaint of the department to the circuit court of the circuit in which the organic food is located. If the court finds the organic food to be in violation of the applicable provisions of this part or rules adopted under this part and the court orders condemnation of the organic food, the organic food shall be disposed of in the manner provided by the circuit court in the order of condemnation. In no instance shall the disposition of the organic food be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the organic food or to apply for permission to process or relabel the organic food to bring it into compliance with chapter 500, the

Florida Food Safety Act, and with the applicable provisions of this part.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429; s. 35, ch. 94-180.

**504.35 Labeling and advertisement.**—All labeling and advertisement of organic food shall be in strict compliance with all requirements of chapter 500 and all rules promulgated under that chapter.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.

**504.36 Disposition of fees, fines, and penalties.**—

All fees, fines, and penalties paid to the department, as provided in this part, shall be deposited into the General Inspection Trust Fund.

**History.**—ss. 1, 6, ch. 90-322; s. 4, ch. 91-429.