

## CHAPTER 571

## AGRICULTURAL ADVERTISING

## PART I FLORIDA SEAL OF QUALITY LAW (ss. 571.01-571.11)

## PART II FLORIDA AGRICULTURAL PROMOTIONAL CAMPAIGN ACT (ss. 571.21-571.29)

## PART I

## FLORIDA SEAL OF QUALITY LAW

- 571.01 Short title.
- 571.02 Purpose.
- 571.03 Definitions.
- 571.04 Powers and duties of the department.
- 571.05 Rules.
- 571.06 License; application, fee, and conditions.
- 571.07 Suspension or revocation of license.
- 571.08 Unlawful acts.
- 571.09 Penalties.
- 571.10 Injunction.
- 571.11 Eggs and poultry; seal of quality violations; administrative penalties.

**571.01 Short title.**—This part shall be known as the “Florida Seal of Quality Law.”

**History.**—s. 1, ch. 63-378; s. 6, ch. 90-323.

**571.02 Purpose.**—The purpose of this part is to authorize the Department of Agriculture and Consumer Services to adopt seals of quality to be used in advertising and promoting the sale of agricultural products produced in Florida and to provide controls in the use of such seals of quality.

**History.**—s. 1, ch. 63-378; ss. 14, 35, ch. 69-106; s. 7, ch. 90-323.

**571.03 Definitions.**—As used in this part:

(1) “Department” means the Department of Agriculture and Consumer Services.

(2) “Person” means an individual, firm, partnership, corporation, association, business, trust, legal representative, or any other business unit.

(3) “Seal of quality” means any word, device, emblem, or symbol adopted by the department for the purpose of identifying and promoting the sale of high-quality agricultural products produced in Florida.

(4) “Reproduce” means to stencil, emboss, print, engrave, impress, imprint, lithograph, or duplicate in any manner or to cause any such acts to be done.

(5) “Agricultural product” includes any fresh or processed horticultural, aquacultural, viticultural, dairy, poultry, apicultural, or other farm or garden product.

(6) “Use of seal of quality” means to imprint a seal of quality on any produce package or container or to attach a reproduction of any seal of quality to any Florida agricultural product package or container of same, or to cause any such acts to be done, for the purpose of identifying any such product in its preparation for market or in any of the various steps in marketing.

**History.**—s. 1, ch. 63-378; ss. 14, 35, ch. 69-106; s. 220, ch. 71-377; s. 6, ch. 87-367; s. 8, ch. 90-323.

**571.04 Powers and duties of the department.**—The duty of enforcing and administering this part is vested in the department, and the department is authorized to employ all agents and persons necessary therefor.

(1) All fees collected under this part shall be paid into the State Treasury and placed to the credit of the General Inspection Trust Fund, from which fund there shall be paid the expenses incurred in the enforcement and administration of this part to include publicizing, advertising, and promoting seals of quality and the agricultural products with which such seals of quality are used. The department may accept contributions of money or services to aid in any advertising or promotion work undertaken by it under authority of this part.

(2) The department may register any seal of quality with the Department of State of Florida, United States Patent Office, appropriate offices of other states of the United States and of foreign countries.

(3) The department, through its authorized representatives, is authorized to:

(a) Enter upon the premises, place of business, or vehicle of any applicant or licensee during normal business hours and conditions for the purpose of determining by inspection and examination the sufficiency of bookkeeping systems, accuracy of records, the agricultural products with which the seal of quality is used, articles purporting to be seals of quality or reproductions of same, and for the purpose of determining whether any other provision of this part or any rule adopted hereunder is being violated.

(b) Issue hold orders to owners and custodians and affix copy of same to seal of quality or reproduction of same in the possession of a nonlicensee; any seal of quality or reproduction of same that is an imitation or counterfeit; any agricultural product with which an imitation or counterfeit seal is used; any agricultural product on which a seal of quality is used after failure to make reports and remittance of advertising and promotion fees provided in this part and rules adopted hereunder; any agricultural product with which a seal of quality is used unless said product is labeled to indicate it is packaged by a licensee or to any agricultural product or article with which a seal of quality is used in violation of this part or rules adopted hereunder. Such hold order shall name and describe the product or article to which attached and the amount and address of same, give notice that the product or article to which attached is or is suspected of being sold, offered for sale, or held for the purpose of sale in violation of law or of rules specified in said order and said hold order shall give warning to all persons not to remove or dispose of such product or article by sale or otherwise until permission is granted by the department or by order of court.

**History.**—s. 1, ch. 63-378; ss. 10, 14, 35, ch. 69-106; s. 9, ch. 90-323.

**571.05 Rules.**—The department by rule may design, determine, and adopt seals of quality for use in publicizing, advertising, and promoting agricultural products; prescribe minimum standards of quality and grade of agricultural products with which a seal of quality may be used; name and define market packages of agricultural products; fix a reasonable and equitable advertising and promotion fee for such market package of agricultural products; and otherwise interpret, implement, and make specific the provisions of this part.

**History.**—s. 1, ch. 63-378, ss. 14, 35, ch. 69-106; s. 10, ch. 90-323.

**571.06 License; application, fee, and conditions.**—

(1) Application for license to reproduce or use a seal of quality shall be made to the department on application forms supplied by the department. Anyone making application and payment of license fee in the amount of \$10 and meeting other qualifications required under this part and rules adopted hereunder shall be granted license for which applied. Such license shall be valid for 1 year from date of issue. The department, however, may refuse to issue a license to any person whose license has been revoked until such person demonstrates to the department that he no longer will violate the provisions of this part or rules adopted hereunder.

(2) Issue of license shall be conditioned upon the applicant's satisfying the department that he has an adequate bookkeeping system, that he keeps and will keep at all times all records necessary to indicate accurately the total volume of agricultural products on which the seal of quality has been used, that such records shall be open at all times for periodic inspection and examination by auditors of the department. The volume and kind of agricultural products on which the seal of quality has been used shall be reported monthly, quarterly, semiannually, or annually as prescribed by rule of the department and such report shall be made with remittance of the advertising and promotion fee applicable not later than the 20th day of the month following the period covered by the report. The report shall be made under oath and on forms furnished by the department. If the report is not filed and advertising and promotion fee paid on the date due or if the report be false, the amount of fee due is subject to a penalty of 10 percent, which shall be added to the advertising and promotion fee and paid therewith.

**History.**—s. 1, ch. 63-378; ss. 14, 35, ch. 69-106; s. 11, ch. 90-323.

**571.07 Suspension or revocation of license.**—The department, after finding that a licensee has violated any of the provisions of this part or rules adopted hereunder, may revoke the license of any licensee or suspend such license for not more than 1 year.

**History.**—s. 1, ch. 63-378; ss. 14, 35, ch. 69-106; s. 6, ch. 78-95; s. 12, ch. 90-323.

**571.08 Unlawful acts.**—It is unlawful for any person:

(1) To remove or dispose of any hold order or any detained agricultural product or article by sale or otherwise without permission of the department or by order of court.

(2) To reproduce or use any seal of quality without license or in violation of the provisions of this part or rules adopted hereunder.

(3) To supply any seal of quality or reproduction of same to any unauthorized person.

(4) To make, reproduce, or use any seal of quality that is an imitation or counterfeit.

(5) To market any agricultural product with which an imitation or counterfeit seal of quality is used.

(6) To market any agricultural product with which a seal of quality is used unless the container of such product is labeled to indicate the name of the licensee.

(7) To fail to report the volume and kind of agricultural product on which a seal of quality has been used and make remittance of advertising and promotion fee when due as provided by rule.

(8) To mislead or deceive, use any imitation, counterfeit, or likeness of the seal of quality on any label, tag, seal, container, sign, or otherwise of any agricultural product of any kind or description for any purpose whatsoever or to mislead or deceive, use any emblem or counterfeit likeness thereof upon or in connection with any offer to sell or advertise for sale or use of any agricultural product of any kind or description which does not in fact lawfully bear a seal of quality.

(9) To fail to do any act required or to do any act prohibited by this part or rules adopted hereunder.

**History.**—s. 1, ch. 63-378, ss. 14, 35, ch. 69-106; s. 13, ch. 90-323.

**571.09 Penalties.**—Any person violating any of the provisions of this part or rules adopted hereunder shall for the first offense be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and for each succeeding offense shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 1, ch. 63-378; s. 565, ch. 71-136; s. 14, ch. 90-323.

**571.10 Injunction.**—In addition to the remedies provided in this part and notwithstanding the existence of any adequate remedy at law, the department is authorized to make application for injunction to a circuit judge, and such circuit judge shall have jurisdiction upon a hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this part or from failing or refusing to comply with the requirements of this part or any rule adopted hereunder, such injunction to be issued without bond.

**History.**—s. 1, ch. 63-378; ss. 14, 35, ch. 69-106; s. 15, ch. 90-323.

**571.11 Eggs and poultry; seal of quality violations; administrative penalties.**—

(1) The Department of Agriculture and Consumer Services may impose a fine not exceeding \$5,000 against any dealer, as defined under s. 583.01(4), in violation of the guidelines for the Florida seal of quality for eggs or poultry programs. All fines, when imposed and paid, shall be deposited by the department into the General Inspection Trust Fund.

(2) Whenever any administrative order has been made and entered by the department imposing a fine pursuant to this section, the order shall specify the amount of fine and time limit for payment thereof, not exceeding 15 days, and, upon failure of the dealer to pay the fine within that time, the permit of the dealer issued under s. 500.12 shall be subject to suspension.

**History.**—s. 3, ch. 86-215; s. 37, ch. 92-180.

## PART II

FLORIDA AGRICULTURAL  
PROMOTIONAL CAMPAIGN ACT

- 571.21 Short title.  
 571.22 Legislative intent.  
 571.23 Definitions.  
 571.24 Purpose; duties of the division.  
 571.25 Registration and fees.  
 571.26 Florida Agricultural Promotional Campaign Trust Fund.  
 571.27 Rules.  
 571.28 Florida Agricultural Promotional Campaign Advisory Council.  
 571.29 Unlawful acts.

**571.21 Short title.**—This part may be cited as the "Florida Agricultural Promotional Campaign Act."

**History.**—s. 16, ch. 90-323.

**571.22 Legislative intent.**—The Legislature finds that there is a need for a Florida Agricultural Promotional Campaign to increase consumer awareness and expand the market for Florida's agricultural products. The Legislature further finds that the Florida Agricultural Promotional Campaign is a partnership between industry and the state to efficiently promote and advertise such products.

**History.**—s. 16, ch. 90-323.

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

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

(2) "Person" means an individual, firm, partnership, corporation, association, business, trust, legal representative, or any other business unit.

(3) "Reproduce" means to stencil, emboss, print, engrave, impress, imprint, lithograph, or duplicate in any manner or to cause any such acts to be done.

(4) "Agricultural product" means any fresh or processed horticultural, aquacultural, viticultural, fish or seafood, dairy, poultry, apicultural, or other farm or garden product.

(5) "Division" means the Division of Marketing and Development of the Department of Agriculture and Consumer Services.

**History.**—s. 16, ch. 90-323; s. 43, ch. 92-291; s. 40, ch. 93-169.

**571.24 Purpose; duties of the division.**—The purpose of this part is to authorize the division to establish and coordinate the Florida Agricultural Promotional Campaign. The duties of the division shall include, but are not limited to:

(1) Developing a logo and authorizing the use of that logo.

(2) Registering participants.

(3) Assessing and collecting fees.

(4) Working closely with the Department of Commerce to explore the feasibility of combining marketing strategies.

(5) Developing in-kind advertising programs.

(6) Contracting with media representatives for the purpose of dispersing promotional materials.

(7) Assisting the representative of the department who serves on the Florida Agricultural Promotional Campaign Advisory Council.

(8) Designating a division employee to be a member of the Advertising Interagency Coordinating Council.

(9) Promulgating rules necessary to implement the provisions of this part.

**History.**—s. 16, ch. 90-323.

**571.25 Registration and fees.**—

(1) Any person who participates in the Florida Agricultural Promotional Campaign shall register annually with the department in a form and manner as required by the department. Each person shall renew their registration by July 1 of each year.

(2) The department is hereby authorized to establish by rule, registration and renewal fees sufficient to cover the cost of administering the Florida Agricultural Promotional Campaign, including all personnel costs. Fees shall be deposited in the Florida Agricultural Promotional Campaign Trust Fund.

**History.**—s. 16, ch. 90-323.

**571.26 Florida Agricultural Promotional Campaign Trust Fund.**—There is hereby created the Florida Agricultural Promotional Campaign Trust Fund within the Department of Agriculture and Consumer Services to receive all moneys related to the Florida Agricultural Promotional Campaign. Moneys deposited in the trust fund shall be appropriated for the sole purpose of implementing the Florida Agricultural Promotional Campaign.

**History.**—s. 16, ch. 90-323.

**571.27 Rules.**—The department is authorized to promulgate rules for entering into contracts with advertising agencies for services which are directly related to the Florida Agricultural Promotional Campaign. Such rules shall establish the procedures for negotiating costs with the offerors of such advertising services who have been determined by the division to be qualified on the basis of technical merit, creative ability, and professional competency. Such determination of qualifications shall also include consideration of the provisions in s. 287.055(3), (4), and (5).

**History.**—s. 16, ch. 90-323.

**571.28 Florida Agricultural Promotional Campaign Advisory Council.**—

(1) ORGANIZATION.—There is hereby created within the department the Florida Agricultural Promotional Campaign Advisory Council, to consist of 15 members appointed by the Commissioner of Agriculture for 4-year staggered terms. The membership shall include: six members representing agricultural producers, shippers, or packers, three members representing agricultural retailers, two members representing agricultural associations, one member representing a wholesaler of agricultural products, one member representing consumers, and one member representing the department. Initial appointment of the council members shall be four members to a term of 4 years, four members to a term of 3 years, four members to a term of 2 years, and three members to a term of 1 year.

(2) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS; COMPENSATION.—The meetings,

powers and duties, procedures, and recordkeeping of the Florida Agricultural Promotional Campaign Advisory Council, and per diem and reimbursement of expenses of council members, shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

**History.**—ss. 16, 18, ch. 90-323; s. 5, ch. 91-429; s. 44, ch. 93-169; s. 21, ch. 94-335.

**571.29 Unlawful acts.**—It is unlawful for any person to use, reproduce, or distribute the logo of the Florida Agricultural Promotional Campaign without being registered with the department, or to otherwise violate the provisions of this part or any rules adopted under this part.

(1) Any person who violates any of the provisions of this part or any rule promulgated under this part is subject to the imposition of an administrative fine of up to \$1,000 for each offense. Upon repeated violation, the department may seek enforcement pursuant to s. 120.69.

(2) Any person who is convicted of a violation of the provisions of this part or rules adopted under this part is, for the first offense, guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and is, for each succeeding offense, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 16, ch. 90-323.