

**"CHAPTER 147
GRADES AND STANDARDS**

Part I. Fresh Fruits, Vegetables, Nuts, Honey,
and Coffee

Section

- 147-1 Definitions
- 147-2 Duties of department; violations; proceedings;
penalties
- 147-3 Repealed
- 147-4 Rules
- 147-5 Prohibition of deceptive packing
- 147-6 Repealed
- 147-7 Inspection and classification of agricultural
commodities; fees
- 147-7.5 Repealed
- 147-8 Appeal for classification; fee
- 147-9 Certificate as evidence
- 147-10 Income from certification and agriculture control
activities

Part II. Exports: Fruits, Vegetables, Nuts, Coffee,
and Honey

- 147-21 Definitions
- 147-22 Rules
- 147-23 Prohibited acts
- 147-24 Inspection
- 147-25 Duties of department; violations; proceedings;
penalties

Part III. Exports: Flowers and Foliage

- 147-31 Definitions
- 147-32 Rules and regulations
- 147-33 Prohibited acts
- 147-34 Inspection; certification fees
- 147-35, 36 Repealed
- 147-37 Duties of department; violations; proceedings;
penalties

Part IV. Processed Food

- 147-51 Definitions
- 147-52 Grades, standards and classifications; changes
- 147-53 Department; grades, standards and classifications;
factors
- 147-54 Department, consideration of use
- 147-55 Department, notice of hearing
- 147-56 Department, hearing, determination

- 147-57 Department, rules and regulations, contracts, cooperation, fees
- 147-58 Department; inspections, etc.; request necessary
- 147-59 Continuous factory inspection; request necessary; labels or marks
- 147-60 Certificate, appeal to department
- 147-61 Certificate, prima facie evidence
- 147-62 Misrepresentation as to grade, etc., penalties
- 147-63 Remedies, extension of other powers
- 147-64 Deposit of moneys

Part V. Chicken Eggs

- 147-71 Words and phrases defined
- 147-72 Sale of bad eggs
- 147-73 Enforcement
- 147-74 Grading standards and regulations
- 147-75 Notice of grade and size; designation of origin of imported eggs
- 147-76 Advertisement of eggs and price
- 147-77 Signs and labels on cartons, crates, etc.
- 147-78 Seller's invoice
- 147-79 Penalties
- 147-80 Administrative penalties
- 147-81 Remedies and penalties not exclusive

Part VI. Beef, Pork, and Poultry Carcasses

- 147-91 Standard grades; rules and regulations
- 147-92 Federal standards
- 147-93 Cooperating with federal authority
- 147-94 Grading voluntary
- 147-95 Regulation of advertising
- 147-96 Public hearings
- 147-97 Disposition of fees

Part VII. Certification Services Revolving Fund

- 147-101 Certification services revolving fund
- 147-102 Certification and audit services

Part VIII. Agricultural Safety and Security

- 147-111 Definitions
- 147-112 Cooperative agreements and contracts to provide auditing and certification services
- 147-113 Audits and certification; requests necessary
- 147-114 Fees and deposit of moneys
- 147-115 Certificate as evidence
- 147-116 Hawaii good agricultural practices program

Part IX. Seed Certification

147-121 Official certifying agency

147-122 Definitions

147-123 Cooperative agreements and contracts to provide
agricultural crop certification services

147-124 Certification; requests necessary

147-125 Rules

147-126 Fees and deposit of moneys

147-127 Certificate as evidence

**"PART I. FRESH FRUITS, VEGETABLES,
NUTS, HONEY, AND COFFEE**

Note

Part heading amended by L 2008, c 167, §2.

§147-1 Definitions. As used in this part, the term:

"Agricultural commodity" means fresh fruits and fresh vegetables of every kind and character, whether or not frozen or packed in ice, whether produced in the State or imported, nuts, and coffee, whether cherry or parchment, or green beans, which have been produced in the State, and raw unprocessed honey, whether produced in the State or imported.

"Consumer" means any person or firm purchasing agricultural commodities for human consumption or animal consumption.

"Department" means the department of agriculture.

"Offgrade" is a descriptive term applicable to agricultural commodities which have a market value, and designates a quality lower than the lowest applicable in Hawaii, other states or the United States grade for each agricultural commodity.

"Produce dealer" means any person other than a producer who is engaged in the selling, marketing, or distributing of any agricultural commodity or in the business of soliciting or negotiating the sale of any farm product, but does not include any person selling solely at retail. For the purposes of this definition, sales to the United States army or navy, restaurants, hotels, hospitals, or other institutions are not retail sales.

"Producer" means any person engaged within the State in the growing or production for market of any agricultural commodity, or any cooperative association of such persons.

"Raw unprocessed honey" means honey that has not been heated above one hundred twenty degrees Fahrenheit, or filtered through a fine screen of less than one-sixty-fourth inch mesh, or treated with diatomaceous earth, or in any other way that results in the loss of any natural constituent of honey, such as plant pollen and enzymes. [L 1945, c 252, §1; RL 1955, §22-1; am L Sp 1959 2d, c 1, §22; am L 1961, c 64, §1 and c 132, §2; am L 1965, c 73, §§1 to 3; HRS §147-1; am L 1983, c 257, §2; am L 2008, c 167, §3]

" **§147-2 Duties of department; violations; proceedings; penalties.** The department shall administer and enforce this part and rules adopted by the department pursuant thereto.

The following penalties, remedies, procedures, and actions shall apply in instances of violations and complaints of

violations of this part, or of the rules adopted by the department under the authority of this part:

- (1) Administrative penalty. The department may, after notice and opportunity for 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 paragraph shall be considered a civil action;
- (2) Nuisance may be enjoined, abated. Violation of this part or of any rule adopted thereunder is declared a public nuisance and may be enjoined or abated as such in a suit filed and prosecuted in the circuit court by the department or the attorney general. The several circuit courts are hereby vested with jurisdiction to prevent and restrain violation of this part or of any rule effective thereunder;
- (3) Misdemeanor. Any person who violates this part or any rule adopted under this part shall be fined not more than \$1,000 or imprisoned not more than one year, or both;
- (4) The penalties and remedies prescribed in this section with respect to any violation mentioned in this section shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal, or alternative rights, remedies, or penalties provided or allowed by law with respect to any such violation; and
- (5) Nothing in this section shall prohibit the county police departments and county prosecutors or state law enforcement agencies from investigating and enforcing criminal violations of this chapter. [L 1945, c 252, §2; RL 1955, §22-2; am L Sp 1959 2d, c 1, §§14, 22; am L 1961, c 132, §2; am L 1963, c 114, §1 and c 193, §8; HRS §147-2; am L 1983, c 257, §3; am L 1985, c 111, §1; am L 2012, c 328, §2]

Cross References

Administrative hearing, see chapter 91.

Rules of Court

Injunction, see HRCF rule 65.

" **§147-3 REPEALED.** L 1991, c 134, §2.

" **§147-4 Rules.** The department may make rules, subject to chapter 91:

- (1) Defining grades and grade labeling requirements of agricultural commodities and standard containers for packing of particular agricultural commodities;
- (2) Prohibiting the sale, offering for sale, or transportation of agricultural commodities unless packed in standard containers and labeled with the appropriate grade or offgrade designation; provided that this prohibition shall not apply to the sale, offering for sale, or transportation to a plant for grading, packing, or processing, or transportation to a warehouse for storage;
- (3) Prohibiting the use of grade terms or abbreviations of grade terms on agricultural commodities for which no grades have been established under this part;
- (4) Defining "suitable shipping condition" for agricultural commodities which are to be shipped for sale from one island to another within the State or to points outside the State, and prohibiting such shipment for sale of agricultural commodities which do not meet the minimum standards set for "suitable shipping condition";
- (5) Prescribing records to be kept in connection with purchases of agricultural commodities by persons, other than produce dealers purchasing from a producer or producers, for purposes of resale five or more tons of agricultural commodities during any one calendar month;
- (6) Prescribing records to be kept by produce dealers in connection with the purchase, sale, transport for sale, solicitation, or negotiation of sale with respect to an agricultural commodity; and
- (7) Relating to the inspection and documentation of the geographic origin of Hawaii-grown green coffee beans.

In making the rules the department shall take into account, among other things, the factors of maturity, condition, soundness, color, shape, size, and freedom from defects of the agricultural commodity in question and shall also take into consideration the official standards, grades or classifications adopted by the secretary of the Department of Agriculture of the United States, commonly known as U.S. Grades. [L 1945, c 252, §4; RL 1955, §22-4; am L Sp 1959 2d, c 1, §22; am L 1961, c 132,

§2; am L 1965, c 73, §4; HRS §147-4; am L 1991, c 134, §1; am L 2012, c 328, §3]

Cross References

Measurement standards, see chapter 486, pt V.

Rulemaking procedure, see chapter 91.

" **§147-5 Prohibition of deceptive packing.** No person shall sell, expose, or offer for sale, or transport for sale in open or closed packages agricultural commodities packed in such manner that the face or shown surface is so superior to the unexposed portion as to quality, size, condition, or in any other respect as to materially misrepresent the contents. [L 1945, c 252, §5; RL 1955, §22-5; HRS §147-5]

" **§147-6 REPEALED.** L 1991, c 134, §3.

" **§147-7 Inspection and classification of agricultural commodities; fees.** (a) The department may contract with the United States Department of Agriculture for obtaining the services of a supervising inspector employed by the federal department and the establishment of a cooperative inspection service with the United States government. The department, or the supervising inspector with the approval of the department, may designate any competent employee or agent of the department as an inspector to inspect or classify agricultural commodities in accordance with rules of the department, and at the time and places designated by the supervising inspector or the department.

(b) The inspectors shall be authorized to inspect or classify agricultural commodities at the request of persons having a financial interest in the commodities and to ascertain and certify to the persons the grade, classification, quality, condition, or origin of them and other pertinent facts.

(c) The department may fix, assess, and collect or cause to be collected fees for the services when they are performed by employees of the department. The fees shall be on a uniform basis and in an amount reasonably necessary to cover the cost of inspection and the administration of this part; provided that the department may prescribe a reasonable charge for traveling expenses and extraordinary services when the performance of the services involves unusual cost in their performance. No fee shall be charged for an inspection unless the inspection was requested by a person having a financial interest in the inspected commodity.

(d) The department may adopt rules establishing the requirements, procedures, restrictions, and other criteria necessary for establishing a program of self inspection and certification of agricultural commodities. [L 1945, c 252, §7; RL 1955, §22-6; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-7; am L 1978, c 12, §1; am L Sp 1995, c 8, §2; am L 1997, c 345, §2; am L 2012, c 328, §4]

" **§147-7.5 REPEALED.** L 2003, c 49, §11.

" **§147-8 Appeal for classification; fee.** Whenever any quantity of any agricultural commodity has been inspected under section 147-7 and a question arises as to whether the certificate issued with respect to the inspection shows true grade, class, quality, condition, or origin of the product, any person having a financial interest in the inspected commodity, subject to any rules adopted by the department, may appeal to the department for a reinspection and the department may reinspect and conduct appropriate tests to determine and issue a written certificate of the true grade, class, quality, condition, or origin of the product.

Whenever any appeal is made to the department under this section it shall charge and collect or cause to be collected a reasonable fee. The amount of the fee shall be fixed by rule and shall be refunded if the appeal is sustained. [L 1945, c 252, §8; RL 1955, §22-7; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-8; am L 1997, c 345, §3]

" **§147-9 Certificate as evidence.** Any certificate made by an inspector pursuant to section 147-7 or any written finding of the board of agriculture pursuant to section 147-8 shall be admissible in evidence in all courts of the State as presumptive evidence of all facts and matters therein stated. [L 1945, c 252, §9; RL 1955, §22-8; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-9]

" **§147-10 Income from certification and agriculture control activities.** Except for fees collected by the department pursuant to part VII, all fees, expenses, and penalties collected by the department pursuant to this part shall be deposited with the director of finance to the credit of the general fund. [L 1945, c 252, §10; RL 1955, §22-9; am L 1959, c 265, §5; am L Sp 1959 2d, c 1, §§14, 22; am L 1961, c 132, §2; am L 1963, c 114, §1; HRS §147-10; am L 1969, c 95, §1; am L Sp 1995, c 8, §3; am L 2003, c 49, §3]

**"PART II. EXPORTS: FRUITS, VEGETABLES,
NUTS, COFFEE, AND HONEY**

Note

Part heading amended by L 1983, c 257, §5; L 2008, c 167, §4.

§147-21 Definitions. For the purposes of this part, unless otherwise required by the context:

"Agricultural commodity" means fruits, [vegetables], nuts, coffee, and raw unprocessed honey.

"Commercial exporter" means any person who is engaged in the business of exporting fresh or processed agricultural commodities to points outside the State.

"Department" means the department of agriculture.

"Processed" means canned, preserved, frozen, pickled, dried, or otherwise prepared with or without any ingredients added thereto.

"Raw unprocessed honey" means honey that has not been heated above one hundred twenty degrees Fahrenheit, or filtered through a fine screen of less than one-sixty-fourth inch mesh, or treated with diatomaceous earth, or in any other way that results in the loss of any natural constituent of honey, such as plant pollen and enzymes.

"Style" means the kind or class of any particular processed agricultural commodity as determined by its physical characteristics, usually the size and shape thereof. [L 1955, c 258, §3; RL 1955, §22-21; am L 1959, c 267, §1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-21; am L 1983, c 257, pt of §5; am L 2008, c 167, §5]

" **§147-22 Rules.** The department shall have the necessary powers to carry out and effectuate the purposes of this part, including the following:

To establish, prescribe, modify, or alter, by rules, such grades, standards, grade labels, and classifications as shall be the minimum requirements for fresh and processed agricultural commodities destined for shipment by commercial exporters to points outside the State; provided that the provisions of such grades, standards, grade labels, and classifications shall not excuse failure to comply with the provisions of the federal and state food, drug, and cosmetic acts. The department in establishing such rules shall consult with appropriate state and federal agencies and with any appropriate industry or trade organization. The standards, grades, grade labels, and classifications so established shall be on the basis of what the department may deem best suited to the agricultural,

horticultural, or other interests of the State; provided that the minimum requirements for the grades, standards, grade labels, and classifications so established for processed agricultural commodities shall not be higher than that of any standardized product which is sanitary and which has been demonstrated to be a commercially-acceptable product of the class to which it belongs and for which a market has been established; provided further that different minimum requirements may be applied to different styles of processed agricultural commodities; and provided further that any processed pineapple product, in which the fruit ingredient is at least ninety-five per cent pineapple in compliance with the provisions of the federal and state food, drug, and cosmetic acts, may be exported from the State. [L 1955, c 258, §4; RL 1955, §22-22; am L 1959, c 267, §1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-22; am L 1983, c 257, pt of §5; am L 1985, c 5, §1]

Cross References

General rulemaking requirements, see chapter 91.

" **§147-23 Prohibited acts.** (a) No commercial exporter shall ship any fresh or processed agricultural commodities to points outside the State unless such products meet the quality, condition, and labeling requirements of the rules adopted under this part.

(b) No Hawaii-grown coffee beans shall be shipped outside the area of their geographic origin to any point within the State or outside the State unless the coffee bean package containing the beans has been marked with or contains documentation of geographic origin approved by the department. [L 1955, c 258, §5; RL 1955, §22-23; am L 1959, c 267, §1; HRS §147-23; am L 1983, c 257, pt of §5; am L 1985, c 5, §2; am L 1997, c 345, §4; am L 2012, c 328, §5]

Cross References

False labeling of Hawaii-grown coffee, see §708-871.5.

" **§147-24 Inspection.** The board of agriculture may designate any employee or agent of the department to inspect or classify fresh and processed agricultural commodities. [L 1955, c 258, §6; RL 1955, §22-24; am L 1959, c 267, §1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-24; am L 1983, c 257, pt of §5]

" **§147-25 Duties of department; violations; proceedings; penalties.** (a) The department shall administer and enforce the provisions of this part and rules adopted thereunder.

(b) In respect of violations or complaints of violation of this part or rules adopted by the department pursuant thereto, the department shall have all the rights and powers conferred upon it by section 147-2, with respect to violations or complaints of violation of part I or rules adopted by the department pursuant thereto; and all remedies, procedures, or actions contained in section 147-2 for violations or complaints of violation of part I or rules adopted by the department thereunder, shall be severally and respectively conferred, granted, practiced, and exercised for violations or complaints of violation of the provisions of this part or rules adopted by the department pursuant thereto. [L 1955, c 258, §7; RL 1955, §22-25; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-25; am L 1983, c 257, pt of §5]

"PART III. EXPORTS: FLOWERS AND FOLIAGE

§147-31 Definitions. For the purposes of this part, unless otherwise required by the context:

"Commercial exporter" means any person who exports or causes to be exported from the State of Hawaii: (1) any fresh or processed flowers or foliage to a wholesaler or retailer for sale or resale or for distribution for commercial or promotional purposes, or (2) any fresh or processed flowers or foliage as a gift for subsequent sale or resale.

"Container" means package used for the export shipment.

"Department" means the department of agriculture.

"Export" means shipment to any point outside the State.

"Flowers and foliage" means cut flowers, foliage, and plants with roots attached.

"Method of packaging" means the manner in which flowers are placed in the container and procedures used to insure retention of desirable qualities in the flowers and foliage.

"Packing material" means anything used in packaging flowers or foliage for shipment other than the container.

"Person" means any individual, firm, corporation, partnership, or association. [L 1959, c 267, pt of §2; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2 and c 139, §1; am L 1963, c 193, §9; Supp, §22-26.2; HRS §147-31; am L 1977, c 20, §1]

Revision Note

Definitions rearranged.

Cross References

Importation of flowers and foliage, see §150A-5.

" **§147-32 Rules and regulations.** The department of agriculture shall have the necessary powers to carry out and effectuate the purposes of this part, including the following:

To establish, prescribe, modify, or alter, by rules and regulations, which shall have the force and effect of law, grades, standards, and classifications for fresh and processed flowers and foliage, and minimum requirements for fresh and processed flowers and foliage destined for shipment by commercial exporters to points outside, and minimum requirements for containers, packing materials, methods of packing, and requirements for labeling to be used in packaging fresh and processed flowers and foliage destined for shipment by commercial exporters to points outside the State.

The department in establishing such rules and regulations shall consult with appropriate state and federal agencies and with any appropriate industry or trade organization. The grades, standards, classifications, minimum requirements for flowers and foliage and requirements for containers, packing material, methods of packing, and labeling shall be on the basis of what the department may deem best suited to the agricultural, horticultural, or other interests of the State. [L 1959, c 267, pt of §2; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2 and c 139, §2; Supp, §22-26.3; HRS §147-32]

Cross References

Rulemaking, see chapter 91.

" **§147-33 Prohibited acts.** No commercial exporter shall ship any fresh or processed flowers or foliage to points outside the State unless such products meet the minimum export quality and condition requirements and are so packaged in containers with such packaging material and in such a manner as to meet the minimum packaging requirements established by rules and regulations promulgated under this part. [L 1959, c 267, pt of §2; Supp, §22-26.4; HRS §147-33]

" **§147-34 Inspection; certification fees.** The board of agriculture may designate any employee or agent of the department as an inspector to classify and inspect fresh and processed flowers and foliage for quality and condition and to determine if containers, packing materials, and methods of

packing meet the minimum requirements established. In addition the inspector may classify and inspect flowers and foliage for quality and condition at the request of persons having a financial interest in the commodities in order to ascertain and to certify to those persons the grade, classification, quality, or condition thereof and other pertinent facts. The department may fix, assess, and collect or cause to be collected fees for those certification services when they are performed by the employees of the department. The fees shall be on a uniform basis and in an amount reasonably necessary to cover the cost of certification services provided at the request of persons having a financial interest. Except for fees collected by the department pursuant to part VII, all fees collected by the department pursuant to this part shall be deposited with the state director of finance to the credit of the general fund. [L 1959, c 267, pt of §2; am L Sp 1959 2d, c 1, §§14, 22; am L 1961, c 132, §2; am L 1963, c 114, §1 and c 193, §10; Supp, §22-26.5; HRS §147-34; am L 2003, c 49, §4]

" **§147-35 REPEALED.** L 1993, c 55, §1.

" **§147-36 REPEALED.** L 1991, c 74, §1.

" **§147-37 Duties of department; violations; proceedings; penalties.** (a) It shall be the duty of the department to administer and enforce the provisions of this part and rules promulgated thereunder.

(b) In respect of violations or complaints of violation of this part or rules adopted by the department pursuant thereto, the department shall have all the rights and powers conferred upon it by section 147-2, with respect to violations or complaints of violation of part I or rules adopted by the department pursuant thereto; and all remedies, procedures, or actions contained in section 147-2 for violations or complaints of violation of part I or rules adopted by the department thereunder, shall be severally and respectively conferred, granted, practiced, and exercised for violations or complaints of violation of the provisions of this part or rules adopted by the department pursuant thereto. [L 1959, c 267, pt of §2; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; am L 1963, c 114, §1 and c 193, §11; Supp, §22-26.8; HRS §147-37; am L 1983, c 257, §7]

"PART IV. PROCESSED FOOD

§147-51 Definitions. For the purpose of this part, unless otherwise required by the context:

"Department" means the department of agriculture.

"Food product" or "product" means any and all fruits, vegetables, nuts, and coffee, or part or parts thereof, produced and processed within the State, any and all honey produced and processed within the State or imported, and also any and all fish and fishery products processed within the State.

"Process" means to can, preserve, freeze, pickle, dry, or otherwise prepare, with or without any added ingredients.

"Processed honey" means honey that has been heated above one hundred twenty degrees Fahrenheit, or filtered through a fine screen of less than one-sixty-fourth inch mesh, or treated with diatomaceous earth, or in any other way that results in the loss of any natural constituent of honey, such as plant pollen and enzymes. [L 1947, c 195, §1; RL 1955, §22-40; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-51; am L 1983, c 257, §8; am L 2008, c 167, §6]

" **§147-52 Grades, standards and classifications; changes.** The standards for grading and classifying food products that have been or may be hereafter adopted, prescribed, or announced by the United States Department of Agriculture or by or under authority of the Congress of the United States are hereby declared to be the official standards for grading and classifying such food products for the State; provided that the department of agriculture may establish and prescribe other and different, or additional, standards for grading and classifying any such products, to the extent permitted by the laws of the United States, which standards, so established and prescribed by the department, shall be the official standards for grading and classifying any such food products for the State. The department may also establish and prescribe official standards for grading and classifying any or all food products for which no standards have been adopted, prescribed, or announced by the United States Department of Agriculture or by or under authority of the Congress. The department may change any standards established and prescribed by it hereunder from time to time. [L 1947, c 195, §2; RL 1955, §22-41; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-52]

" **§147-53 Department; grades, standards and classifications; factors.** In establishing any grades, standards, or classifications for any food product, the department of agriculture, in addition to such factors as may be specified in any other law, shall take into account and base the grades, standards, or classifications upon such of the following factors as shall be applicable to the product involved: degree of maturity; size, measured by dimensions or weight; degree of

freshness, as determined by physical examination or chemical test or analysis; moisture content; uniformity; color; firmness; tenderness; defects; injury; damage; diseases; appearance; mixture of varieties; decay; conformation; soundness; varietal characteristics or type; number of specimens per pound; nature of pack; presence of dirt or other foreign material; condition as to temperature and extent to which the product is hot or heating or is in a sour condition; extent to which product is satisfactory for human or other consumption or use; extent to which the product has been affected by handling or treatment; extent to which the product has a commercially objectionable flavor or odor; and other factors indicative of class, quality, or condition, and of the value or suitability of the product involved for the commercial or other use to be made thereof. In addition the department shall take into account any grades, standards, or classifications for such product established by the United States Department of Agriculture and also applicable federal grades and standard laws. [L 1947, c 195, §3; RL 1955, §22-42; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-53]

" **§147-54 Department, consideration of use.** The factors required to be considered by the department of agriculture in establishing any grades, standards, or classifications for any food product shall be applied in accordance with the extent to which and manner in which the same relate to the quality and condition of that product and the value and suitability thereof for the commercial or other use to which it is normally put. [L 1947, c 195, §4; RL 1955, §22-43; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-54]

" **§147-55 Department, notice of hearing.** In establishing and prescribing the standards, or any alterations or modifications to the standards, the department of agriculture shall call a public hearing and give notice thereof in conformity with chapter 91. [L 1947, c 195, §5; RL 1955, §22-44; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; am L 1965, c 96, §20; HRS §147-55]

" **§147-56 Department, hearing, determination.** After holding a public hearing upon the establishment, alteration, or modification of any grades, standards, or classifications, the department of agriculture shall consider the facts and arguments presented at the hearing and shall establish and prescribe, by rule and regulation, such grades, standards, and classifications, or modify or alter such grades, standards, and classifications, as it may deem best suited to the agricultural,

horticultural, or other interests of the State and the inhabitants thereof. [L 1947, c 195, §6; RL 1955, §22-45; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-56]

" **§147-57 Department, rules and regulations, contracts, cooperation, fees.** The department of agriculture, in addition to powers granted by this part or any other law, shall have all powers necessary or convenient to carry out and effectuate this part, including the following:

- (1) To prescribe rules and regulations, not inconsistent with this part, respecting: the standards for grading and classifying, and the grades, standards, and classification for, food products; the inspection, grading, and classification of food products; the determination and certification of the grade, classification, quality, and condition of food products and such other pertinent facts as the department may deem advisable; the licensing of inspectors, graders, and samplers and the duties of such inspectors, graders, and samplers; methods of test, analysis, and examination in determining the grade, classification, quality, and condition of food products; the official word or words, figure, or letter to indicate official grade or standards of quality or condition of food products; the design, form, and use of official labels and statements for use on packages or containers of products inspected, graded, classified, and certified under this part; and continuous factory inspection, grading, classification, and certification of food products;
- (2) To contract with the United States Department of Agriculture for the services of an inspector or inspectors employed by the department and the establishment of a cooperative inspection service with the United States government;
- (3) To cooperate with the United States or any department thereof, in accomplishing the matters or things provided for herein;
- (4) To fix, assess, and collect, or cause to be collected, fees for inspecting or classifying food products, such fees to be on a uniform basis in an amount reasonably necessary to cover, as nearly as may be, the cost of the inspection and the administration of this part; provided that the department may adjust the fees to be collected hereunder to meet the expenses necessary to carry out the provisions hereof and may prescribe a different scale of fees for different localities; and

provided further that the department may prescribe a reasonable charge for traveling expenses and services. Charges for continuous factory inspection and grading may be fixed, assessed, and collected on such contract basis as will reimburse the State for the salary and all expenses of the factory inspector or grader, to which shall be added an appropriate percentage of charges assessed to cover, as nearly as practicable, administrative overhead expense. [L 1947, c 195, §7; RL 1955, §22-46; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-57]

Cross References

Rulemaking, see chapter 91.

" **§147-58 Department; inspections, etc.; request necessary.** The board of agriculture may designate any employee or agent of the department of agriculture to inspect or classify food products, in accordance with such regulations as the department may prescribe, at the request of persons having an interest in the products, and to ascertain and certify to the persons the grade, classification, quality, or condition thereof and other pertinent facts as the department may require. The inspections, classifications, and certifications shall be requested, and in no case shall be required by the department. [L 1947, c 195, §8; RL 1955, §22-47; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-58; am L 1978, c 12, §2; am L Sp 1995, c 8, §4]

" **§147-59 Continuous factory inspection; request necessary; labels or marks.** The board of agriculture may designate any employee or agent of the department of agriculture to perform continuous factory inspection or classification of food products, in accordance with such rules and regulations as the department may prescribe, at the request of persons having an interest in the products, and to ascertain and certify to the persons the grade, classification, quality, or condition thereof and such other pertinent facts as the department may require. Such inspections, classifications and certifications shall be requested, and in no case shall be required by the department.

Subject to rules and regulations prescribed by the department, an appropriate state label or mark or marks, established and adopted by the department, may be used on packages or containers of food products which are so continuously inspected and graded and are found to meet the official grades or standards of the department shown on the label or by the mark or marks. The labels shall include a

statement of the official grade or standard of the product contained in the package or container, as graded or classified under this part, and may include, in whole or in part, a facsimile of the seal of the department. The department may register any label as a trademark under the laws of the State or may register it with the United States government and any state or foreign government.

The department may fix, assess, and collect, or cause to be collected, fees for the use of labels or marks or may print and sell the labels, at charges to be fixed by the department, to persons authorized to use them on packages or containers, or may rent dies or cuts of labels or marks, at a charge to be fixed by the department, to persons authorized to use them. [L 1947, c 195, §9; RL 1955, §22-48; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-59]

Cross References

Trademarks, see chapter 482.

" **§147-60 Certificate, appeal to department.** Whenever any quantity of any food product has been inspected and certified hereunder and a question arises as to whether the certificate issued therefor shows the true grade, classification, quality, or conditions of the product, any interested person, subject to such regulations as the department of agriculture may prescribe, may appeal the question to the board of agriculture, and the board may cause such investigation to be made and such tests to be applied as it may deem necessary and determine and issue a finding as to the true grade or classification of the product or the quality or condition thereof. Whenever an appeal is taken to the board under this section it shall charge, assess, and collect, or cause to be collected, a reasonable fee, to be fixed by the board, which shall be refunded if the appeal is sustained. [L 1947, c 195, §10; RL 1955, §22-49; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-60]

" **§147-61 Certificate, prima facie evidence.** A certificate, when not superseded by a finding on appeal, or a finding on appeal of the grade, classification, quality, or condition of any food product, issued under this part and all certificates issued under authority of the Congress of the United States relating to the grade, classification, quality, or condition of food products shall be accepted in any court of this State as prima facie evidence of the true grade, classification, quality, or condition of such food product at the time of its inspection. [L 1947, c 195, §11; RL 1955, §22-50; HRS §147-61]

" **§147-62 Misrepresentation as to grade, etc., penalties.**

(a) If any quantity of any food product has been inspected and a certificate issued hereunder showing the grade, classification, quality, or condition thereof, no person shall represent that the grade, classification, quality, or condition of the product at the time and place of the inspection was other than as shown by the certificate.

(b) If any lot or lots of any food product has been inspected and a certificate issued hereunder showing the grade, classification, quality, or condition of the lot or lots, no person shall represent that the certificate is descriptive of or relates to any other lot or lots of food products not inspected hereunder and not covered by the certificate.

(c) Whenever any standard for the grading or classification of any food product becomes effective under this part, and any word or words, figure, or mark or marks, or letter, has been established and adopted by the department to indicate the grade or quality of the food product contained in any package or container, it shall be unlawful for any person to use any of the words, letters, figures, or marks, in connection with any package or container, to represent the grade or quality of the food product contained therein, to be sold or offered for sale, if the product does not meet the requirements of the grade indicated by the marking.

(d) Whenever any standard for the grading or classification of any food product becomes effective under this part, and any label has been established and adopted by the department to indicate the grade, quality or condition of the food product contained in any package or container, it shall be unlawful for any person to use any label, in connection with any package or container, unless authorized so to use it by, or under the rules prescribed by, the department. [L 1947, c 195, §12; RL 1955, §22-51; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-62; am L 1983, c 257, §9]

" **§147-63 Remedies, extension of other powers.** In respect of violations or complaints of violation of this part or rules adopted by the department pursuant thereto, the department shall have all the rights and powers conferred upon it by section 147-2, with respect to violations or complaints of violation of part I or rules adopted by the department pursuant thereto; and all remedies, procedures, or actions contained in section 147-2 for violations or complaints of violation of part I or rules adopted by the department thereunder, shall be severally and respectively conferred, granted, practiced, and exercised for violations or complaints of violation of the provisions of this

part or rules adopted by the department pursuant thereto. [L 1947, c 195, §13; RL 1955, §22-52; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-63; am L 1983, c 257, §10]

" **§147-64 Deposit of moneys.** Except for fees collected by the department pursuant to part VII, all fees, charges, expenses, civil penalties, and other moneys collected by the department under this part or any rules prescribed by the department pursuant to this part shall be deposited with the state director of finance to the credit of the general fund. [L 1947, c 195, §14; RL 1955, §22-53; am L Sp 1959 2d, c 1, §§14, 22; am L 1961, c 132, §2; am L 1963, c 114, §1 and c 193, §12; HRS §147-64; am L 2003, c 49, §5]

"PART V. CHICKEN EGGS

§147-71 Words and phrases defined. Whenever used in this part, unless the context otherwise requires:

"Addled" or "white rot" means an egg which is putrid or rotten.

"Adherent yolk" means an egg in which the yolk has settled to one side and become fastened to the shell.

"Black rot" means an egg which has deteriorated to such an extent that the whole interior presents a blackened appearance before the candle.

"Blood ring" means an egg which contains blood.

"Consumer" means any person purchasing eggs for the person's own family use or consumption, or a restaurant, hotel, boarding house, bakery, or other institution purchasing eggs for serving to guests or patrons, or for its or their use in cooking or baking.

"Eggs" means chicken eggs in the following forms:

- (1) Uncooked in the shell; and
- (2) Liquid, frozen, or dried whole egg meats, whites of eggs or egg yolks.

"Moldy" means an egg in which mold has developed inside the shell.

"Retailer" means any person, firm, corporation, or association which sells eggs to a consumer. [L 1931, c 70, §2; RL 1935, §1074; RL 1945, §1305; RL 1955, §22-70; am L 1959, c 5, §1(b); HRS §147-71; am L 1985, c 18, §1; gen ch 1985]

Revision Note

Definitions rearranged.

" **§147-72 Sale of bad eggs.** No person shall sell, or offer to sell, or expose for sale, any eggs unfit for human food unless they are broken in shell and then denatured so that they cannot be used for human food. For the purposes of this part an egg is deemed unfit for human food if it is addled or moldy, if it contains a black spot, black rot, white rot, or blood ring; if it has an adherent yolk or a bloody or green white (albumen), or if it consists in whole or in part of a filthy, decomposed or putrid substance. [L 1931, c 70, §1; RL 1935, §1073; RL 1945, §1304; RL 1955, §22-71; HRS §147-72]

" **§147-73 Enforcement.** The department of agriculture is empowered through its authorized agents, deputies and inspectors to enforce this part and to have supervision and control of all enforcement officers of this part in the State. [L 1931, c 70, §3; RL 1935, §1075; am L 1939, c 92, §1; RL 1945, §1306; RL 1955, §22-72; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-73]

" **§147-74 Grading standards and regulations.** Subject to chapter 91, the department of agriculture may make rules 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 adopted under this part. [L 1931, c 70, §4; RL 1935, §1076; RL 1945, §1307; am L 1955, c 167, §1; RL 1955, §22-73; am L 1959, c 54, §1; am L Sp 1959 2d, c 1, §22; am L

1961, c 103 and c 132, §2; HRS §147-74; am L 1972, c 67, §1 and c 147, §2; am L 1983, c 177, §2]

Case Notes

Cited: 41 H. 565, 566.

" **§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 the person's 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 States 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.

Eggs imported from the mainland United States or foreign countries shall be individually marked 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 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 intended for hatching or sale as balut and eggs which are preserved with an outer covering of ashes and salt need not be marked as herein provided. [L 1931, c 70, §5; RL 1935, §1077; am L 1935, c 164, §1; am L 1939, c 175, §1; RL 1945, §1308; am L 1953, c 242, §1; am L 1955, c 167, §§2, 4; RL 1955, §22-74; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-75; am L 1983, c 177, §3; gen ch 1985; am L 1989, c 55, §1]

Case Notes

Cited: 41 H. 565, 571; 47 H. 652, 660, 394 P.2d 618.

" **§147-76 Advertisement of eggs and price.** It shall be unlawful to advertise in newspaper or by sign, handbill, placard, or otherwise, the price at which eggs are offered for sale without plainly indicating in conjunction with price, the full and correct designation of grade, size of the eggs according to the standards in this chapter, of geographic origin

of eggs, and of shell treatment if applicable. The designations shall be in a typeface or other conspicuous letters as provided in the rules of the department of agriculture. [L 1959, c 22, §1; Supp, §22-74.1; HRS §147-76; am L 1989, c 87, §1]

" **§147-77 Signs and labels on cartons, crates, etc.** The signs and labels required by section 147-75 shall likewise be affixed to the cartons, crates, and cases containing eggs required to be marked as in the section provided. [L 1953, c 90, §1; RL 1955, §22-75; HRS §147-77]

" **§147-78 Seller's invoice.** Every person, in selling eggs to a retailer, shall furnish to the retailer an invoice showing the exact grade or quality and the size or weight of the eggs according to the standards prescribed by the department of agriculture. A copy of the invoice shall be kept on file by the person selling and by the retailer at their respective places of business for a period of thirty days, and shall be available for inspection at all reasonable times by accredited inspectors or representatives of the department. [L 1931, c 70, §6; RL 1935, §1078; RL 1945, §1309; am L 1955, c 167, §3; RL 1955, §22-76; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-78]

" **§147-79 Penalties.** Every person who violates this part shall be fined not more than \$1,000 or imprisoned not more than one year, or both. [L 1931, c 70, §7; RL 1935, §1079; RL 1945, §1310; RL 1955, §22-77; HRS §147-79; am L 1983, c 177, §4]

" **§147-80 Administrative penalties.** The department of agriculture may, after notice and opportunity for 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. [L 1983, c 177, pt of §5; am L 1985, c 18, §2]

" **[§147-81 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. [L 1983, c 177, pt of §5]

"PART VI. BEEF, PORK, AND POULTRY CARCASSES

§147-91 Standard grades; rules and regulations. The department of agriculture shall adopt standard grades for beef, pork, mutton, and lamb carcasses and make rules and regulations relating thereto, subject to chapter 91, which shall have the force and effect of law, and shall be applicable only to carcasses previously inspected and passed for wholesomeness. The rules and regulations may include provisions for the enforcement thereof, including the definitions of prohibited acts and the penalties therefor, and may fix reasonable fees for the grading services, furnished under this part. The fees shall be on a uniform basis and in an amount reasonably necessary to cover the cost of inspection and the administration of this part, but not to exceed the maximum fees charged by the federal grading service. [L 1955, c 272, §1; RL 1955, §22-90; am L 1957, c 172, §1(a); am L Sp 1959 2d, c 1, §22; am L 1961, c 103 and c 132, §2; HRS §147-91]

" **§147-92 Federal standards.** The department of agriculture may adopt the federal grade standards for the grading of beef, pork, mutton and lamb. [L 1955, c 272, §2; RL 1955, §22-91; am L 1957, c 172, §1(b); am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-92]

" **§147-93 Cooperating with federal authority.** The department of agriculture may enter into cooperative agreements with the United States Department of Agriculture for the purpose of grading beef, pork, mutton, and lamb carcasses. [L 1957, c 172, §1(c); am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; Supp, §22-92; HRS §147-93; am L 2003, c 49, §6]

" **§147-94 Grading voluntary.** The grading of beef, pork, mutton, and lamb carcasses by trained graders cooperating with or employed by the department of agriculture shall be voluntary with the producer or the producer's agent. [L 1955, c 272, §3; RL 1955, §22-92; ren and am L 1957, c 172, §1(d) and (e); am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-94; gen ch 1985]

" **§147-95 Regulation of advertising.** The department of agriculture may regulate advertising in regard to grading, inspection, and origin of carcasses or parts thereof by slaughterers, wholesalers, and retailers of beef, pork, or poultry carcasses offered for sale, regardless of the origin of such carcasses. [L 1955, c 272, §4; RL 1955, §22-93; ren L 1957,

c 172, §1(d); am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-95]

" **§147-96 Public hearings.** Before adopting any rules or regulations authorized by this part, the department of agriculture shall first hold a public hearing upon the proposed rules or regulations on each island. [L 1955, c 272, §5; RL 1955, §22-94; ren L 1957, c 172, §1(d); am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §147-96]

Cross References

Rulemaking, see chapter 91.

" **§147-97 Disposition of fees.** All fees collected under this part shall be paid into a special fund established by the department of agriculture and shall be expended for the purposes of this part. [L 1957, c 172, §1(f); Supp, §22-96; HRS §147-97; am L 2003, c 49, §7]

"PART VII. CERTIFICATION SERVICES REVOLVING FUND

Note

Part heading amended by L 2003, c 49, pt of §8.

§147-101 Certification services revolving fund. There is established a certification services revolving fund for use by the department of agriculture to support certification or audit services established under parts I, III, IV, VIII, and IX. Moneys in the fund may be expended for materials, salaries, equipment, training, travel, and other costs related to providing certification or audit services. Notwithstanding sections 147-10, 147-34, 147-64, 147-114 and 147-126, moneys derived from the certification or audit services provided by temporary inspectors employed under this part or from charges for traveling expenses or extraordinary services shall be deposited into the fund. [L 1994, c 264, §3; am L 2000, c 253, §150; am L 2003, c 49, pt of §8]

" **[§147-102] Certification and audit services.** The department of agriculture shall fix, assess, and collect fees for certification or audit services provided by temporary inspectors employed under this part. The fees shall be in amounts necessary to cover all costs of the administration and provision of the certification or audit services provided under this part; provided that the department of agriculture shall

establish charges for traveling expenses and extraordinary services when the performance of the services involves unusual cost. The fees and charges established by the department of agriculture shall not be subject to chapter 91. The department of agriculture may employ temporary inspectors to assist in providing certification or audit services under parts I, III, IV, VIII, and IX, and those temporary inspectors shall be exempt from chapter 76. [L 2003, c 49, §2]

"[PART VIII.] AGRICULTURAL SAFETY AND SECURITY

[\$147-111] Definitions. As used in this part, unless the context otherwise requires:

"Department" means the department of agriculture. [L 2003, c 49, pt of §1]

" [\$147-112] Cooperative agreements and contracts to provide auditing and certification services. The department may enter into cooperative agreements with the United States Department of Agriculture or other agreements and contracts with private parties or other governmental agencies for the purposes of:

- (1) Auditing and certifying that applicants are following good agricultural, handling, processing, and manufacturing practices; and
- (2) Maintaining food security and product traceability. [L 2003, c 49, pt of §1]

" [\$147-113] Audits and certification; requests necessary. The department may designate any employee or agent of the department to conduct the audits and certification authorized under this part at the request of persons having a financial interest in the business or product. These audits and certification may be requested, but in no case shall be required by the department. [L 2003, c 49, pt of §1]

" [\$147-114] Fees and deposit of moneys. (a) The department shall fix, assess, and collect fees for the audit and certification services provided under this part. The fees shall be as established under cooperative agreement with the United States Department of Agriculture or other governmental agencies or, if not applicable, as established by rule under section 147-7. The department may also charge an amount necessary to cover all costs of traveling expenses and extraordinary services when the performance of the services involves unusual cost in their performance.

(b) Except for fees collected by the department pursuant to part VII, all fees and expenses collected by the department

pursuant to this part shall be deposited with the director of finance to the credit of the general fund. [L 2003, c 49, pt of §1]

" **[\$147-115] Certificate as evidence.** A certificate issued under this part and all certificates issued under the authority of the Congress of the United States relating to matters covered by this part shall be acceptable in any court of this State as prima facie evidence of the status of a business or product at the time of its audit. [L 2003, c 49, pt of §1]

" **[\$147-116] Hawaii good agricultural practices program.**
(a) There is established the Hawaii good agricultural practices program to be administered by the department of agriculture. The purpose of the program is to develop and support good agricultural practices for Hawaii farms growing agricultural food products.

(b) Notwithstanding any provision of law to the contrary, the Hawaii good agricultural practices program shall:

- (1) Develop science- and risk-based good agricultural practices that reasonably reduce the potential for on-farm food-borne illness and include, as appropriate, specific considerations and methodologies for farm sizes, practices, techniques, materials, and crops;
- (2) Develop and implement programs to educate and train Hawaii farmers to learn and implement good agricultural practices in a cost-effective and efficient manner;
- (3) Provide procedures for the voluntary verification of on-farm implementation of good agricultural practices and the subsequent issuance of state compliance certification; and
- (4) Develop a consumer information program for publication and broadcast to teach home practices for the treatment and handling of fresh and processed agricultural food products.

(c) The department shall consult as necessary with the department of health, the University of Hawaii college of tropical agriculture and human resources, and other state and federal agencies to develop and implement the Hawaii good agricultural practices program.

(d) The department may adopt rules under chapter 91 to facilitate the implementation of this section. [L 2015, c 153, §2]

"[PART IX.] SEED CERTIFICATION

[\$147-121] Official certifying agency. The department is designated as the official certifying agency for certifying seed concerning genetic purity, identity, quality, and condition for the State. The department may appoint an appropriate agent to do the work necessary for the certifications in compliance with established standards. [L 2003, c 49, pt of §1]

" **[\$147-122] Definitions.** As used in this part, unless the context otherwise requires:

"Certifying agency" means:

- (1) An agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity, identity, quality, and condition of the seed certified; or
- (2) An agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under paragraph (1).

"Department" means the department of agriculture.

"Seed" means:

- (1) The seed of grass, forage, cereal, and fiber crops;
- (2) Other kinds of seed commonly recognized as agricultural or vegetable seed; and
- (3) Other kinds of propagating materials. [L 2003, c 49, pt of §1]

" **[\$147-123] Cooperative agreements and contracts to provide agricultural crop certification services.** The department may enter into cooperative agreements with the United States Department of Agriculture or other agreements and contracts with private parties or other governmental agencies for the purposes of certifying seed. [L 2003, c 49, pt of §1]

" **[\$147-124] Certification; requests necessary.** The department may designate any employee or agent of the department to conduct the inspections and certification authorized under this part at the request of persons having a financial interest in the seed. These inspections and certification may be requested, but in no case shall be required by the department. [L 2003, c 49, pt of §1]

" **[\$147-125] Rules.** The department shall have the necessary powers to carry out and effectuate the purposes of this part, and, subject to chapter 91, may adopt rules with respect to:

- (1) Standards for grades, genetic purity, identity, quality, and condition of seed;
- (2) Procedures for certifying seed; and
- (3) Other matters necessary to carry out the purposes of this part. [L 2003, c 49, pt of §1]

" **[\$147-126] Fees and deposit of moneys.** (a) The department shall fix, assess, and collect fees for the inspection and certification services provided under this part. The fees shall be as established under cooperative agreement with the United States Department of Agriculture or other government agencies or, if not applicable, as established by rule under section 147-7. The department may also charge an amount necessary to cover all costs of traveling expenses and extraordinary services when the performance of the services involves unusual cost in their performance.

(b) Except for fees collected by the department pursuant to part VII, all fees and expenses collected by the department pursuant to this part shall be deposited with the director of finance to the credit of the general fund. [L 2003, c 49, pt of §1]

" **[\$147-127] Certificate as evidence.** A certificate issued under this part and all certificates issued under the authority of the Congress of the United States relating to matters covered by this part shall be acceptable in any court of this State as prima facie evidence of the genetic purity, identity, quality, and condition of seed at the time of its inspection. [L 2003, c 49, pt of §1]