

**"CHAPTER 148  
ADVERTISING AND MARKETING**

Part I. Fruits, Vegetables, and Coffee

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## "PART I. FRUITS, VEGETABLES, AND COFFEE

**§148-1 Definitions.** As used in this part:

"Chairperson" means chairperson of the board of agriculture or the chairperson's authorized agents.

"Department" means the department of agriculture.

"Fresh fruits, fresh vegetables, and coffee" means any fresh fruit, fresh vegetable and coffee whether imported or produced in the State. [L 1961, c 73, §1 and c 132, §2; am L 1963, c 206, §2; Supp, §22C-1; HRS §148-1; am L 1969, c 72, §1; gen ch 1985, 1993]

### Revision Note

Numeric designations deleted and definitions rearranged.

### Cross References

Grades and standards, see chapter 147.

" **§148-2 Rules and regulations.** To carry out and effectuate the purpose of this part, the department of agriculture may, subject to chapter 91, establish, prescribe, modify, or alter rules and regulations, which shall have the force and effect of law to control the advertisement of fresh fruits, fresh vegetables, or coffee including requirement for specifying size, grade, geographic origin, or quality, in conjunction with price.

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 rules and regulations for controlling advertising and requirements for specifying size, grade, geographic origin, or quality in conjunction with price shall be on the basis of what the department may deem best suited to the interest of the consumer, the producer, and the public. [L 1961, c 73, §2, c 103, and c 132, §2; Supp, §22C-2; HRS §148-2]

" **§148-3 Duties of chairperson; violations; proceedings; penalties.** The chairperson shall enforce this part and any rule made by the department.

The following penalties and remedies shall apply in instances of violations of this part or the rules issued by the department:

- (1) Violation of this part or of any rule issued thereunder is declared a public nuisance and may be enjoined or abated; and

- (2) Every person who violates this part or any rule issued thereunder shall, after notice and opportunity for hearing, be fined not less than \$50 nor more than \$500. Each day a violation continues 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.

The penalties and remedies prescribed in this part shall be concurrent and alternative with any and all other civil, criminal, or alternative rights, remedies or penalties provided by law. [L 1961, c 73, §3; am L 1963, c 206, §2; Supp, §22C-3; HRS §148-3; am L 1985, c 99, §1; gen ch 1993]

### **Rules of Court**

Injunctions, see HRCF rule 65.

#### **"PART II. POULTRY--REPEALED**

**§§148-11 to 20 REPEALED.** L 1983, c 75, §2.

#### **"PART III. PORK--REPEALED**

**§148-31 REPEALED.** L 2000, c 30, §1.

#### **"PART IV. PESTICIDES--REPEALED**

**§148-51 REPEALED.** L 1995, c 32, §1.

#### **"[PART V.] SEAL OF QUALITY**

##### **[\$148-61] Establishment of a seal of quality program.**

There is established within the department of agriculture a seal of quality program, which may include a certificate of origin. This program shall establish official seals of quality for fresh and processed agricultural products that are produced within the State. The seals of quality may be in the form of seals, brands, labels, or trademarks. [L 2002, c 163, pt of §2]

" **[\$148-62] Authorization to contract with nonprofit corporations; duties.** (a) The department of agriculture may enter into contracts with nonprofit corporations to engage in the activities in subsections (b), (c), and (d). These nonprofit corporations shall:

- (1) Maintain status as a nonprofit corporation pursuant to section 501(c) of the Internal Revenue Code of 1986, as amended; and

- (2) Consist of a board of directors comprised of representatives from a cross-section of agricultural organizations, commodity groups, and governmental agencies.
- (b) The nonprofit corporations contracted under subsection (a) may develop and recommend to the department of agriculture for adoption, rules relating to:
  - (1) The design of a seal of quality for agricultural products that are grown, processed, or manufactured in Hawaii;
  - (2) The standards and criteria for agricultural products grown, processed, or manufactured in Hawaii that must be satisfied to obtain use of the seal of quality; and
  - (3) The license fees required for use of the seal of quality.
- (c) The nonprofit corporations contracted under subsection (a) shall:
  - (1) Develop and implement marketing programs for products licensed to use the seal of quality;
  - (2) Issue licenses for the use of the seal of quality and collect the license fees established by rules of the department of agriculture; and
  - (3) Develop promotional materials and establish and collect fees for the use of these promotional materials.
- (d) The nonprofit corporations contracted under subsection (a) may:
  - (1) Assist the department of agriculture in monitoring compliance with the requirements for the use of the seal of quality; and
  - (2) Accept gifts or grants in any form from any public agency or any other source. [L 2002, c 163, pt of §2]

" **[\$148-63] Rules.** Subject to chapter 91, the department of agriculture shall adopt rules, as necessary, with respect to:

- (1) Definition of terms;
- (2) The design of the seals of quality for identifying fresh or processed agricultural commodities that are produced within the State;
- (3) The categories of fresh or processed agricultural commodities that are eligible to use the seals of quality;
- (4) The minimum quality of fresh or processed agricultural commodities that are eligible to use the seals of quality;
- (5) The minimum per cent of wholesale value added within the State to qualify for use of the seals of quality;

- (6) Minimum packaging and labeling requirements for fresh or processed agricultural commodities using a seal of quality;
- (7) Application forms for the license to use the seals of quality and the information required to be included on the application forms;
- (8) Assessment and collection of license fees for the use of the seals of quality to cover the costs of providing the service;
- (9) Assessment and collection of charges for stickers, placards, and other promotional materials provided by the department of agriculture;
- (10) Provisions for the appropriate use of seals of quality, including use in advertisements;
- (11) Record keeping requirements for parties licensed to use the seals of quality;
- (12) Administrative penalties for violation of this part; and
- (13) Enforcement of this part. [L 2002, c 163, pt of §2]

" **[\$148-64] Enforcement.** (a) The department of agriculture, through its authorized agents and employees, shall enforce this part.

(b) The department of agriculture or its authorized agent may examine, during normal business hours, any ledgers, books, accounts, memoranda, and other documents, fresh or processed agricultural products, supplies, and equipment, and any other articles and things used in connection with the business of a person licensed under this part. [L 2002, c 163, pt of §2]

" **[\$148-65] Prohibited acts.** No person shall:

- (1) Use a seal of quality established under this part without being licensed;
- (2) Use a seal of quality on a fresh or processed agricultural commodity that does not meet the requirements of this part;
- (3) Use a device, symbol, indicia, or by any other means imitate the seal of quality established by this part; or
- (4) Make any claim that a fresh or processed agricultural commodity is permitted to use a seal of quality when it is not. [L 2002, c 163, pt of §2]

" **[\$148-66] Administrative penalties.** (a) The department of agriculture, after notice and opportunity for hearing, may revoke or suspend any license issued under this part for any violation of this part.

(b) The department of agriculture, after notice and opportunity for hearing, may fine any person who violates 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 2002, c 163, pt of §2]

" **[\$148-67] Seal of quality special fund.** (a) There is established in the state treasury the seal of quality special fund, into which shall be deposited:

- (1) All revenues from the operations of the seal of quality program established under section 148-61;
- (2) Fines collected under section 148-66; and
- (3) Any appropriations made by the legislature to the fund.

(b) Moneys in the special fund may be expended for all costs associated with the seal of quality program, including:

- (1) Conducting trade shows, retail shows, conferences, seminars, and other promotional activities;
- (2) Expenses for designs, program labels, items and materials, displays, brochures, media advertisements, inspection, and review and investigative activities relating to application and enforcement of the program;
- (3) Printing, mailing, airfare and per diem, lei, decors, rental of facilities and audio visual equipment, display and booth fees, participation fees, general supplies; and
- (4) Any other expense necessary to administer the program.  
[L 2007, c 120, §1]