

Article 44A.

Fruit and Vegetable Handlers Registration Act.

§ 106-501.1. Definitions.

The following definitions shall apply when used under this Article:

- (1) "Commissioner" means the Commissioner of Agriculture of the State of North Carolina.
- (2) "Consignment" means any transfer of fruits and vegetables by a seller to the custody of another person who acts as the agent for the seller for the purpose of selling such fruits and vegetables.
- (3) "Department" means the Department of Agriculture and Consumer Services.
- (4) "Farmer" means any person who produces fruits or vegetables or both.
- (5) "Handler" means any person in the business of buying, receiving, selling, exchanging, negotiating, processing for resale, or soliciting the sale, resale, exchange, or transfer of any fruits and vegetables purchased from a North Carolina farmer, received on consignment from a North Carolina farmer, or received to be handled on net return basis from a North Carolina farmer.
- (6) "Net return basis" means a purchase for sale of fruits and vegetables from a farmer or shipper at an unfixed or unstated price at the time the fruits and vegetables are shipped from the point of origin, and it shall include all purchases made "at the market price," "at net worth," and on similar terms, which indicate that the buyer is the final arbiter of the price to be paid.
- (7) "Processing" means any act or operation that freezes, dehydrates, cans, or otherwise changes the physical form or characteristic of fruits and vegetables. (2018-113, s. 1(b).)

§ 106-501.2. Registration required.

(a) Prior to conducting business in North Carolina, a handler shall register with the Department, free of cost, by providing to the Department the following information:

- (1) The handler's name.
- (2) The handler's principal place of business.
- (3) The type of fruits and vegetables handled by the handler.
- (4) The annual volume, in dollar amount, of fruits and vegetables handled by the handler in North Carolina.

(b) A handler shall update the Department within 60 calendar days of any change in information required under subdivision (a)(1), (a)(2), or (a)(3) of this section.

(c) A handler shall update the Department of the annual volume required under subdivision (a)(4) of this section by February 1st of each year.

(d) Information collected under this Article shall be held confidential by the Department and not subject to public records disclosure. (2018-113, s. 1(b).)

§ 106-501.3. Exemptions to registration.

This Article shall not apply to:

- (1) A farmer or group of farmers in the sale of fruits and vegetables produced by the farmer or group of farmers.

- (2) A handler who pays at the time of purchase with United States cash currency or a cash equivalent, such as a money order, cashier's check, wire transfer, electronic funds transfer, or PIN-based debit transaction, or a credit card.
- (3) A restaurant.
- (4) A retailer that sells fruits and vegetables to end-use consumers through retail establishments or food stands operated by the company, its affiliates, or subsidiaries. (2018-113, s. 1(b).)

§ 106-501.4. Authority of the Board of Agriculture.

The Board of Agriculture may adopt rules to implement this Article. (2018-113, s. 1(b).)

§ 106-501.5. Civil penalties.

(a) The Commissioner may assess a civil penalty of not more than one hundred dollars (\$100.00) per violation against any person or business entity who violates a provision of this Article or any rule adopted thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Civil penalties for failure to register or provide updated information under this Article shall only be issued after a 15-calendar-day notice has been provided to the handler and the handler fails to remedy the deficiency within the 15 days. (2018-113, s. 1(b).)

§ 106-501.6. Injunctions.

In addition to the remedies provided in this Article and notwithstanding the existence of any adequate remedy at law, the Commissioner is authorized to apply to any court of competent jurisdiction, and such court shall have jurisdiction upon hearing and for cause shown to grant, for a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this Article or any rule promulgated thereunder. Such injunction shall be issued without bond. (2018-113, s. 1(b).)