

CHAPTER 218

AN ACT concerning misuse of labeling on farm products, amending various sections of statutory law, supplementing chapter 10 of Title 4 of the Revised Statutes, and repealing R.S.4:10-15.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.4:10-5 is amended to read as follows:

Use of outline of State on products; license; penalty.

4:10-5. No person shall use the outline of this State on packages or devices containing farm products or to otherwise advertise or promote such farm products unless the person is licensed by the department so to do.

Upon application for such a license and upon being satisfied that any farm products to be sold by the applicant conform to official standards promulgated by the department, the department may issue a license in the name of the State, permitting the person to use the outline on any such package, device, or advertising.

The form of the application and the license shall be determined by the department.

The license may be revoked by the department at any time for good cause shown after notice and an opportunity to be heard and subject to the right of appeal to the State board.

A person who shall violate the provisions of this section shall be liable to a penalty of \$100, to be collected in a civil action in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and paid to the General Fund. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this section. Each package or device improperly labeled in violation of this section shall constitute a separate violation.

2. R.S.4:10-9 is amended to read as follows:

Disposition and use of fees collected.

4:10-9. All fees and other moneys collected under this chapter by the secretary and the employees or agents of the department, shall be paid into the General Fund, and shall be appropriated for the use of the department in carrying out the provisions of this chapter when authorized by any appropriation act.

3. Section 1 of P.L.1956, c.88 (C.4:10-13.1) is amended to read as follows:

C.4:10-13.1 Marketing of farm products; advertising.

1. No person shall designate, display any sign designating, or advertise any business as a "farmers' market," "farmers' auction market," or use words in connection therewith the general import of which would indicate or tend to indicate to the public at large that farm products as defined in R.S.4:10-1 are dealt with therein, unless such farm products are the principal commodities displayed and offered for sale or sold in the operation of such business.

4. R.S.4:10-14 is amended to read as follows:

Penalty for violations or interference.

4:10-14. a. A person who shall:

(1) except as provided for pursuant to subsection b. of this section, violate any provision of this chapter or any rules or regulations adopted pursuant thereto to implement any such provision;

(2) fail to comply with any requirement of this chapter;

(3) with intent to deceive, answer or report falsely in response to any requirement of this chapter; or

(4) knowingly interfere with the secretary, or the employees or agents of the department, in the performance of duties prescribed by this chapter--

Shall for the first offense be liable to a penalty of not more than \$100, and for any subsequent offense be liable to a penalty of not more than \$200, to be collected in a civil action in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this section. The penalty when recovered shall be paid to the General Fund. Whenever a violation of this section involves false, misleading, or improper labeling of farm products, each package shall constitute a separate violation.

b. The provisions of subsection a. of this section shall not apply to violations of R.S.4:10-5, or any rules or regulations adopted pursuant thereto.

5. Section 6 of P.L.1939, c.136 (C.4:10-21) is amended to read as follows:

C.4:10-21 Printing of labels; license to use brand.

6. The Secretary of Agriculture shall cause to be printed labels bearing a State brand in sufficient quantities to meet the demand therefor and may sell such labels at a price to be fixed by the Secretary of Agriculture. As an alternative method, the Secretary of Agriculture may, in accordance with rules and regulations adopted by the department, rent dies or cuts of the State brand to persons or organizations desiring to manufacture their own labels for use on fresh or processed farm products owned and packed by them, at a price to be fixed by the Secretary of Agriculture. When a brand bearing the outline of the map of the State is desired to be used, the applicant shall secure a license for its use as provided in R.S.4:10-5.

6. Section 10 of P.L.1939, c.136 (C.4:10-25) is amended to read as follows:

C.4:10-25 Restraint of unauthorized use of State brand, outline.

10. The Secretary of Agriculture, in conjunction with the Division of Consumer Affairs in the Department of Law and Public Safety, shall have the power, by injunction or otherwise, to restrain any person or organization using or attempting to use any State brand or the use of the outline of the State, except in accordance with the provisions of R.S.4:10-5 or P.L.1939, c.136 (C.4:10-16 et seq.). Notwithstanding any law, rule, or regulation to the contrary, Department of Agriculture inspectors may issue citations to any person suspected of using, or attempting to use, any State brand or the outline of the State, except in accordance with the provisions of R.S.4:10-5 or P.L. 1939, c.136 (C.4:10-16 et seq.).

C.4:10-19.2 Fraudulent advertising of NJ product; violations, penalties.

7. A person shall not advertise, or in any way imply in any advertising or on any packages or devices, that any produce, seafood, dairy, or other agricultural product has been

produced in New Jersey unless the produce, seafood, dairy, or other agricultural product was produced in New Jersey or the waters thereof.

A person who shall violate the provisions of this section shall be liable to a penalty of \$100 to be collected in a civil action in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and paid to the General Fund. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this section. Each package or device improperly labeled in violation of this section shall constitute a separate violation.

The Secretary of Agriculture, in conjunction with the Division of Consumer Affairs in the Department of Law and Public Safety, shall have the power, by injunction or otherwise, to restrain any person or organization violating the provisions of this section. Notwithstanding any law, rule, or regulation to the contrary, Department of Agriculture inspectors may issue citations to any person suspected of violating the provisions of this section.

Repealer.

8. R.S.4:10-15 is hereby repealed.

9. This act shall take effect immediately.

Approved January 17, 2012.