

**IC 16-42-11**

Chapter 11. Food: Eggs Offered for Sale and State Egg Board

**IC 16-42-11-1**

**Repealed**

*(Repealed by P.L.28-2009, SEC.16.)*

**IC 16-42-11-1.1**

**Definitions**

Sec. 1.1. The following definitions apply throughout this chapter:

- (1) "Case" means thirty (30) dozen.
- (2) "Eggs" means shell eggs represented as fresh or treated.
- (3) "Farmers market" means a common facility where two (2) or more farmers or growers gather on a regular basis to sell farm products, which they produce, directly to the consumer.
- (4) "Fresh eggs" means consumer grades of eggs as defined by the standards of quality and weights as set forth by the state egg board.
- (5) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, regardless of whether the group is incorporated.
- (6) "Retailer" means any person who sells eggs for human consumption and not for resale.
- (7) "Treated eggs" means eggs that have been treated by a process such as pasteurization, irradiation, or other method of treatment that changes the interior quality of an egg in such a manner that United States Department of Agriculture quality standards do not apply.
- (8) "Wholesaler" means any person engaged in buying eggs for human consumption for resale to retailers, hotels, restaurants, hospitals, nursing homes, schools, state or federal institutions, operators of multiple unit retail outlets engaged in the distribution of eggs to their own retail units, or producers who sell or deliver eggs to retailers, hotels, restaurants, hospitals, nursing homes, schools, or state or federal institutions.

*As added by P.L.28-2009, SEC.4.*

**IC 16-42-11-2**

**Repealed**

*(Repealed by P.L.28-2009, SEC.16.)*

**IC 16-42-11-3**

**Repealed**

*(Repealed by P.L.28-2009, SEC.16.)*

**IC 16-42-11-4**

**Establishment of board; membership; term; oath; officers; compensation; business office**

Sec. 4. (a) The state egg board is established. The board consists of nine (9) members appointed by the governor as follows:

- (1) One (1) member from recommendations submitted by the Indiana State Poultry Association, Inc.
- (2) One (1) member from recommendations submitted by the Indiana Farm Bureau, Inc.
- (3) One (1) member from recommendations submitted by the Indiana Retail Grocery and Convenience Store Association, Inc.
- (4) One (1) member from recommendations submitted by the Indiana Retail Council, Inc.
- (5) One (1) member from recommendations submitted by the Egg Council of the Indiana State Poultry Association, Inc.
- (6) One (1) member from recommendations submitted by the dean of the college of agriculture of Purdue University.
- (7) One (1) member at large to represent the interests of the consumer.
- (8) One (1) member to represent those engaged in the wholesaling of eggs through the Federal-State Egg Grading Program in Indiana.
- (9) One (1) member to represent the interests of the food service industry.

(b) All appointments are for terms of three (3) years. However, an appointment to fill an unexpired term shall be made by the governor for the remainder of that term only.

(c) The recommendations provided for in this section shall be submitted to the governor within ten (10) days before an appointment is to be made to the state egg board. All appointments by the governor under this chapter shall be made within twenty (20) days after submission to the governor of the recommendations for appointments. If the recommendations are not submitted to the governor within the specified time, the governor shall make the appointment without the recommendations. If the governor does not make an appointment to fill an expired term for a member described in subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) within twenty (20) days after receiving the recommendation, the current members of the state egg board may select an individual from the names submitted by an organization under subsection (a) to fill the position represented by that organization on the state egg board. The individual shall serve a three (3) year term beginning with the next official board meeting following the twenty (20) day deadline.

(d) The members of the state egg board shall, before entering upon their duties, take and subscribe to the oath of office provided for other state officers. The oath of office shall be filed in the office of the secretary of state. The secretary of state shall administer the oath as a part of the duties of the office of secretary of state.

(e) The state egg board shall elect from its own membership the following officers:

- (1) President.
- (2) A vice president who serves in the president's absence or disability.
- (3) Recording secretary.

The officers serve for one (1) year or until their successors are

elected and qualified.

(f) Each member of the state egg board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) The state egg board shall provide a suitable office, equipment, supplies, and facilities for the conduct of the board's business.

*As added by P.L.2-1993, SEC.25. Amended by P.L.40-1993, SEC.55; P.L.28-2009, SEC.5.*

### **IC 16-42-11-5**

#### **Powers and duties**

Sec. 5. (a) The state egg board shall administer, enforce, and carry out this chapter.

(b) The state egg board shall do the following:

(1) Formulate and determine standards of quality and weights of eggs sold or offered for sale.

(2) Regulate the sale of and commerce in eggs sold or offered for sale at retail or wholesale and regulate the sale of eggs by wholesalers and retailers.

(3) Formulate and publish definitions, names, and grades of eggs and specifications for the care and handling of eggs that may be offered for sale at retail and wholesale under the terms of this chapter and for the care and handling of eggs that may be offered for sale by wholesalers and retailers as eggs fit for human consumption.

(4) Provide for and issue permits to wholesalers or retailers of eggs and provide for the registration of wholesalers and retailers of eggs.

(5) Adopt rules necessary for or incident to carrying out this chapter.

(6) Investigate and report violations of this chapter and violations of the rules of the state egg board to the proper authorities for prosecution.

(7) Revoke any registration or permit for a violation of this chapter or of the rules adopted by the state egg board.

(8) Hold four (4) regular meetings at quarterly intervals at the time and place the state egg board designates. The president of the state egg board may call special meetings of the state egg board whenever in the president's judgment it becomes necessary. The president shall call a special meeting of the state egg board upon written request of a majority of the members of the state egg board.

(9) The state egg board shall publish or cause to be published an annual report of the board's work. In addition, the state egg board may periodically publish or cause to be published and distributed other information concerning eggs.

*As added by P.L.2-1993, SEC.25. Amended by P.L.28-2009, SEC.6.*

#### **IC 16-42-11-6**

##### **Substandard eggs; prohibited sale**

Sec. 6. A person may not sell, offer for sale, or advertise for sale at retail or wholesale eggs that do not meet the standards of quality and weight set forth by the state egg board.

*As added by P.L.2-1993, SEC.25. Amended by P.L.28-2009, SEC.7.*

#### **IC 16-42-11-7**

##### **Proof of delivery**

Sec. 7. (a) Every person selling eggs to a retailer shall furnish proof of delivery at the time of delivery showing:

- (1) the date;
- (2) the grades; and
- (3) the quantity of the eggs;

according to the standards prescribed by the state egg board.

(b) A copy of the proof of delivery shall be kept on file by retailers at their respective places of business for thirty (30) days and at all reasonable times shall be available and open for inspection by accredited inspectors or representatives of the state egg board.

*As added by P.L.2-1993, SEC.25. Amended by P.L.28-2009, SEC.8.*

#### **IC 16-42-11-8**

##### **Farmers' and egg producers' exemption**

Sec. 8. Farmers and other bona fide egg producers who sell and deliver, on the premises where produced, eggs produced by their own flocks on their own premises are exempt from this chapter.

*As added by P.L.2-1993, SEC.25.*

#### **IC 16-42-11-9**

##### **Farmer's or egg producer's wholesaler or retailer registration**

Sec. 9. A farmer or bona fide egg producer may apply for registration as a wholesaler or retailer under this chapter and may, upon application, after being registered receive a permit to sell eggs.

*As added by P.L.2-1993, SEC.25.*

#### **IC 16-42-11-9.5**

##### **Farmers market retail permit**

Sec. 9.5. A farmer or bona fide egg producer who markets directly to the consumer at a location that is not the farmer's or producer's own premises and is recognized as a farmers market may be required to have a farmers market retail permit issued by the state egg board. The state egg board shall establish requirements and procedures for obtaining a farmers market retail permit by rule under IC 4-22-2.

*As added by P.L.28-2009, SEC.9.*

#### **IC 16-42-11-10**

##### **Application of section; registration statement; fees; wholesaler report permit**

Sec. 10. (a) Except as provided in section 10.2(d) of this chapter, this section applies to:

- (1) registrations and permits issued by; and
- (2) fees due and payable to;

the state egg board before July 1, 2010.

(b) Every wholesaler or retailer selling eggs shall, before July 1 of each year, file with the state egg board a statement setting forth the fact that the wholesaler or retailer desires to sell eggs. The statement shall designate the name of the wholesaler or retailer desiring to register the location of the wholesaler's or retailer's principal office and any location where eggs are stored or distributed if that location is different from the principal office. The state egg board shall furnish blank forms for registration. The state egg board shall register the facts set forth in the statement in a permanent record. The state egg board shall furnish to each registered wholesaler a registration number upon payment of the registration fee and deposit.

(c) The state egg board shall require and collect from each wholesaler at the time of registration a fee based upon the average number of cases of eggs sold to retailers, hotels, restaurants, hospitals, nursing homes, schools, or to state or federal institutions each week during the preceding calendar year, as follows:

Average Number of Cases Sold	Registration Fee
0 - 100	\$ 30
101 - 250	\$ 60
251 - 500	\$ 90
501 - 1,000	\$ 120
1,001 and over	\$ 150

(d) The state egg board shall require and collect from each wholesaler at the time of registration a deposit equal to the product obtained by using a multiplier of six cents (\$0.06) and a multiplicand that is the number of cases of eggs sold in that quarter of the immediately preceding five (5) calendar quarters in which the highest number of cases of eggs were sold by the wholesaler to retailers, hotels, restaurants, hospitals, nursing homes, schools, or to state or federal institutions. However, if the wholesaler does not have a five (5) quarter history, the state egg board shall fix the deposit at a reasonable amount.

(e) The state egg board shall require and collect from each retail store or unit of retailing a fee based upon the average number of cases of eggs sold each week during the preceding calendar year, as follows:

Average Number of Cases Sold	Registration Fee
1-5	\$20
more than 5	\$25

(f) All registered wholesalers must make application to the state egg board for a permit to report the case volume of eggs sold in Indiana and submit a fee of six cents (\$0.06) for each thirty (30)

dozen eggs or a fraction of that number of the volume reported. In applying for a permit, the applicant must agree to do the following:

- (1) Keep records the state egg board considers necessary to indicate accurately the case volume of eggs sold in Indiana.
- (2) Grant the state egg board permission to examine those records and verify the statement of the number and grade of eggs reported.
- (3) Report under oath to the state egg board, on forms furnished by the state egg board, the number of eggs reported during the period covered.

*As added by P.L.2-1993, SEC.25. Amended by P.L.183-1993, SEC.1; P.L.28-2009, SEC.10.*

#### **IC 16-42-11-10.2**

##### **Application of section; permit and registration requirements; fees**

Sec. 10.2. (a) Except as provided in subsection (d), this section applies to:

- (1) registrations and permits issued by; and
- (2) fees due and payable to;

the state egg board after June 30, 2010.

(b) The state egg board may establish requirements for issuing a permit or registration under this chapter by rule under IC 4-22-2.

(c) The state egg board may establish fees necessary to carry out this chapter by rule under IC 4-22-2.

(d) If a rule is not in effect by July 1, 2010, the fees and requirements for obtaining a registration or permit under section 10 of this chapter apply until the date the rule takes effect.

*As added by P.L.28-2009, SEC.11.*

#### **IC 16-42-11-10.4**

##### **Permits; issuance; revocation; fees**

Sec. 10.4. The state egg board may grant a permit if the board determines that the action will lead to efficient enforcement of this chapter. The state egg board may revoke a permit at any time if it appears to the state egg board that a wholesaler is not complying with the terms of the agreement entered into at the time of the issuance. The report of eggs is due and the fees are payable quarterly on the last day of the month following the end of the quarter. If:

- (1) the report is not filed and the fee paid by the tenth day following the due date;
- (2) the report is false; or
- (3) the requirements of this chapter have not been complied with;

the state egg board may revoke the permit. If the fee is unpaid after the ten (10) day grace period, a penalty of the greater of twenty dollars (\$20) or ten percent (10%) of the amount due in addition to the amount due shall be assessed. If the state egg board determines that an account review is necessary, out-of-state permit holders shall reimburse the state egg board for expenses incurred to conduct the account review.

*As added by P.L.28-2009, SEC.12.*

#### **IC 16-42-11-11**

##### **Prohibited sales or distribution**

Sec. 11. (a) A person may not sell as a wholesaler to a retailer, hotel, restaurant, hospital, nursing home, school, or state or federal institution eggs for human consumption that are not subject to being reported as provided in this chapter.

(b) A person operating multiple retail outlets may not distribute or deliver to retail units eggs for human consumption that are not subject to being reported as provided for in this chapter. A retail store or retail unit may not receive from a wholesaler eggs for human consumption that are not subject to being reported as provided for in this chapter.

*As added by P.L.2-1993, SEC.25. Amended by P.L.28-2009, SEC.13.*

#### **IC 16-42-11-12**

##### **Purdue University; inspections**

Sec. 12. The dean of the college of agriculture of Purdue University may, subject to the approval of the state egg board, employ an executive administrator, inspectors, clerks, and other assistants necessary to carry out this chapter under the direction and supervision of the state egg board. The inspectors shall inspect and examine eggs sold, offered for sale, or exposed for sale and shall also inspect and examine eggs sold by wholesalers and retailers as fit for human consumption under this chapter at times and places and in the manner the state egg board directs.

*As added by P.L.2-1993, SEC.25. Amended by P.L.40-1993, SEC.56; P.L.28-2009, SEC.14.*

#### **IC 16-42-11-13**

##### **Fiscal management**

Sec. 13. All money received by the state egg board shall be paid to the treasurer of Purdue University who shall, under the direction of the state egg board, expend the money on proper vouchers to meet all necessary expenditures for carrying out this chapter and for any other expenses of Purdue University agricultural programs authorized by law and in support of the purposes of this chapter. The dean of agriculture shall submit to the state egg board an annual report showing the receipts and expenditures of all money received and expended by the director under this chapter. The report shall be made a part of the annual report of the state egg board.

*As added by P.L.2-1993, SEC.25. Amended by P.L.40-1993, SEC.57.*

#### **IC 16-42-11-14**

##### **Violations**

Sec. 14. A person who violates this chapter commits a Class C infraction.

*As added by P.L.2-1993, SEC.25.*

**IC 16-42-11-15**

**Immunity from liability**

Sec. 15. The:

- (1) members of the state egg board;
- (2) dean of the college of agriculture of Purdue University; and
- (3) employees of the state egg board;

are not liable in their individual capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this chapter.

*As added by P.L.2-1993, SEC.25. Amended by P.L.40-1993, SEC.58; P.L.28-2009, SEC.15.*