

THE CIVIL ADMINISTRATIVE CODE OF ILLINOIS

(Ill. Compiled Statutes, Ch.20 and 5, par. 205/40 and 620/42 et seq.)

DEPARTMENT OF AGRICULTURE

Act of March 7, 1917, resumed

AN ACT in relation to the civil administration of the State government, and to repeal certain acts therein named. Laws 1917, p. 2, approved March 7, 1917, eff. July 1, 1917.

205/40. Powers of Department of Agriculture

§40. The Department of Agriculture has the powers enumerated in Sections 40.1 through 40.45.¹

Amended by P.A. 87-0121, § 1, eff. Aug. 13, 1991; P.A. 87-152, § 1, eff. Jan. 1, 1992.

¹ Paragraphs 40.1 to 40.40 of this chapter.

Article II of P.A. 85-1209, the First 85th General Assembly Combining Revisory Act, resolved multiple actions in the 85th General Assembly and made certain technical corrections through P.A. 85-1014.

205/40.1 § 40.1. Repealed by P.A. 84-295, § 3, eff. Jan. 1, 1986.

205/40.2. § 40.2. Repealed by P.A. 80-594, § 2, eff. Oct. 1, 1977.

205/40.3 § 40.3. Repealed by P.A. 84-295, § 3, eff. Jan. 1, 1986.

205/40.4. Inspection of apiaries

§40.4. To exercise the rights, powers and duties vested by law in the State entomologist, his officers and employees.

Added by Laws 1967, p. 4087, eff. Sept. 7, 1967.

205/40.5. § 40.5. Repealed by P.A. 84-295, § 3, eff. Jan. 1, 1986.

205/40.6. Fertilizers

§40.6. To execute and administer the Acts and rules

regulating the manufacture, sale and distribution of fertilizers.

Amended by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.7. Promotional activities--Centennial farms

§40.7. To encourage and promote, in every practicable manner, the interests of agriculture, including horticulture, the livestock industry, dairying, cheese making, poultry, bee keeping, forestry, the production of wool, and all other allied industries. In furtherance of the duties set forth in this Section, the Department may establish trust funds and bank accounts in adequately protected financial institutions to receive and disburse monies in connection with the conduct of food shows, food expositions, trade shows, and other promotional activities, and to sell at cost, to qualified applicants, signs designating farms, which have been owned for 100 years or more by lineal descendants of the same family, as "Centennial Farms". The Department shall provide applications for such signs, which shall be submitted with the required fee. "Centennial Farms" signs shall not contain within their design, the name, picture or other likeness of any elected public official or any appointed public official.

Amended by P.A. 80-625, §1, eff. Oct. 1, 1977.

205/40.7a. State Fair Promotion

§40.7a. State Fair Promotion. To encourage and promote agriculture and related industries and activities associated with the Illinois State Fair. The Department may establish State Fair and treasury held funds to receive and disburse moneys in connection with the conduct and promotion of activities held at the Illinois State Fair.

Added by P.A. 88-5, §5, eff. June 8, 1993.

205/40.7b. Livestock show promotion grants

S.40.7b. To develop and implement a program of grants to promote of grants to promote National Junior Livestock Association production livestock shows that have been approved by the Department and are scheduled to be held at the Illinois State Fair of the DuQuoin State Fair. Grant applicants must be nonprofit organizations that organize or sponsor the shows and must submit information requested by the Department to verify their nonprofit nature and financial condition.

Criteria for awarding grants shall include, but need not be limited to the following: (i) the length of the show: (ii) the estimated proceeds of the show: (iii) the number of entries in the show: and (iv) the economic impact of the show upon the

State.

Grants shall be awarded from funds appropriated for this purpose to a maximum of \$100,000 per fiscal year. Any number of grants may be awarded for the promotion of one show.

205/40.8. Method of conducting industries

§40.8. To promote improved methods of conducting these several industries with a view to increasing the production and facilitate the distribution thereof at the least cost.

Added by Laws 1967, p. 4087, eff. Sept. 7, 1967.

205/40.9. Statistics

§40.9. To collect and publish statistics relating to crop production and marketing, the production of and marketing beef, pork, poultry, mutton, wool, butter, cheese and other agricultural products so far as such statistical information may be of value to the agricultural and allied interests of the State.

Added by Laws 1967, p. 4087, eff. Sept. 7, 1967.

205/40.10. Market news and bulletins

§40.10. To collect, analyze and publish market news and to establish such facilities and publish such bulletins and news reports as may be necessary and proper in order to keep producers and handlers informed concerning supply, demand and other economic conditions affecting and related to the sale of livestock and other agricultural products produced in the State of Illinois.

Amended by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.11. Trees and shrubs--Insect nests and plant diseases

§40.11. To encourage the planting of trees and shrubs and the improvement of farm homes generally; to provide for the suppression and control of insect pests and plant diseases.

Amended by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.12. Biological products

§40.12. To approve the use of licensed veterinary biologics in the State and approve field trials of veterinary biologics in accordance with the standards provided for in the Code of Federal Regulations, Title 9, Subpart E.

Added by Laws 1967, p. 4087, eff. Sept. 7, 1967.

Amended by P.A. 88-91, § 5, eff. July 14, 1993; P.A. 88-457, § 5, eff. Aug. 20, 1993.

205/40.13. Contagious diseases

§40.13. To inquire into the causes of contagious, infectious and communicable diseases among domestic animals, and the means for the prevention and cure of such diseases.

Added by Laws 1967, p. 4087, eff. Sept. 7, 1967.

205/40.14. Institutes, societies, fairs and exhibits

§40.14. To assist, encourage and promote the organization of farmers' institutes, horticultural and agricultural societies, the holding of fairs, fat stock shows or other exhibits of the products of agriculture and the breeding and racing of Illinois conceived and foaled horses.

Amended by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.15. Appropriations to fairs and farmers' institutes

§40.15. To investigate and ascertain that moneys appropriated for county fairs and farmers' institutes are faithfully applied to the purposes authorized by law.

Added by Laws 1967, p. 4087, eff. Sept. 7, 1967.

205/40.16. Animal welfare

§40.16. To execute and administer acts and rules relating to animal welfare.

Amended by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.17. Warehouses--Grain

§40.17. To exercise the rights, powers and duties vested by law in the Department in regulating grain warehouses, personal property warehouses and persons engaged in the business of buying

and selling grain.

Amended by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.18. Weights and measures

§40.18. To execute and administer all laws and regulations, now or hereafter enacted, relating to weights and measures.

Added by Laws 1967, p. 4087, eff. Sept. 7, 1967.

205/40.19. Commodities--Standards of quality

§40.19. To execute and administer all laws and regulations, now or hereafter enacted, relating to standards and quality of and for commodities.

Added by Laws 1967, p. 4087, eff. Sept. 7, 1967.

205/40.20. Transfer of realty

§40.20. To transfer jurisdiction of any realty under the control of the Department to any other Department of the State Government, or to acquire or accept Federal lands, when such transfer, acquisition or acceptance is advantageous to the State and is approved in writing by the Governor.

Added by Laws 1967, p. 4087, eff. Sept. 7, 1967.

205/40.21. Pesticides

§40.21. To execute and administer laws and regulations relating to the distribution, sale, use and registration of pesticides and the regulation and certification of persons applying pesticides and pesticide dealers; and to promote the proper handling and use of pesticide containers through the operation of pesticide container recycling programs and to make business development loans from moneys granted to the Department by the United States Department of Agriculture for those purposes, subject to terms and conditions the Department deems necessary to ensure repayment of the loans.

Amended by P.A. 84-295, §2, eff. Jan. 1, 1986.

Amended by P.A. 89-463, §3, eff. May 31, 1996.

205/40.22. Custody of buildings and property

§40.22. To be the custodian of buildings, structures and property located on the State Fairgrounds, and to maintain the same.

Added by P.A. 81-853, §14, eff. Sept. 21, 1979.

205/40.23. Surety bonds and trust funds--Trust accounts and bank accounts--Storage obligations

§40.23. To control surety bonds and trust funds and to establish trust accounts and bank accounts in adequately protected financial institutions, to hold monies received by the Director of Agriculture when acting as trustee, to protect the assets of licensees for the benefit of claimants, to accept security from licensees to collateralize licensees' financial deficiencies and such security shall be secondary to surety bonds in the collection process, to accept collateral and security in lieu of or in addition to a commercial surety bond, to collect and disburse the proceeds of such bonds and trust funds when acting as trustee on behalf of claimants without responsibility for the management and operation of discontinued or insolvent businesses, such funds or additions thereto in which the State of Illinois has no right, title or interest.

The Department shall promulgate and file procedural rules and regulations to be followed concerning the establishment and segregation of trust accounts and bank accounts and the holding of administrative hearings to identify and verify claimants and claim amounts, to claim and collect the proceeds of surety bonds and other assets, and to distribute monies in trust funds and bank accounts to claimants. The trustee shall maintain and retain records and make available for audit or review by any person, firm, corporation or government entity such trust accounts and bank accounts, check registers, cancelled claimants' checks, and records accumulated and used by the Department to ascertain the claimants and claims against surety bonds or trust funds.

Definitions of terms as used in this Section:

"Claimant" means a person who is unable to secure satisfaction of financial obligations due from a person subject to regulation by the Department, in accordance with applicable statute or regulation and the time limits provided for therein, if any, under the following Acts:

- (a) Illinois Egg and Egg Products Act;¹
- (b) Personal Property Storage Act;²
- (c) (Blank)
- (d) Livestock Auction Market Law;³
- (e) Illinois Pesticide Act;⁴
- (f) Weights and Measures Act;⁵
- (g) Illinois Livestock Dealer Licensing Act;⁶
- (h) Slaughter Livestock Buyers Act;⁷
- (i) (Blank); or
- (j) "Illinois Feeder Swine Dealer Licensing Act."⁸

"Failure" under the Acts cited in the definition of "claimant" contained in this Section means:

(a) An inability to financially satisfy claimants in accordance with applicable statute or regulation and the time limits provided for therein, if any;

(b) A public declaration of insolvency;

(c) A revocation of license and leaving outstanding indebtedness to claimants;

(d) A failure to pay claimants in the ordinary course of business and where a bonafide dispute does not exist between licensee and customer;

(e) A failure to apply for license renewal;

(f) A denial of license renewal; or

(g) A voluntary surrendering of a license.

The Department may use monies in the trust accounts that are established to hold monies received in trust for disbursement to claimants for the benefit of claimants and for paying expenses incurred in pursuing such assets.

Amended by P.A. 86-232, §9, eff. Aug. 15, 1989.

Amended by P.A. 89-287, §95-5, eff. Jan. 1, 1996.

¹ 410 ILCS 6/5 et seq.

² 240 ILCS 10/0.01 et seq.

³ 225 ILCS 640/1 et seq.

⁴ 415 ILCS 60/1 et seq.

⁵ 225 ILCS 470/1 et seq.

⁶ 225 ILCS 645/1 et seq.

⁷ 225 ILCS 655/1 et seq.

⁸ 225 ILCS 620/1 et seq.

205/40.24. County soil surveys--Funding

§40.24. The Department of Agriculture shall provide funds sufficient to pay 25% of the cost of conducting county soil surveys conducted pursuant to Part 611 of Subchapter B, Chapter VI, Title 7 of the Code of Federal Regulations.

Added by P.A. 81-1360, §2, eff. July 23, 1980.

205/40.25. Fuel sold as gasohol--Tests

§40.25. To test fuel which is sold as gasohol, or is claimed to be gasohol under the Use Tax Act,¹ the Service Occupation Tax Act² or the Retailers' Occupation Tax Act,³ to determine whether the fuel contains at least 10% alcohol.

Any person who knowingly sells or represents as gasohol any fuel which does not qualify as gasohol under any of the above named Acts is guilty of a business offense and shall be fined not more than \$100 for each day that such sale or representation takes place after notification from the Department that the fuel in question does not qualify as gasohol.

Added by P.A. 82-702, §1, eff. July 1, 1982.

¹ Chapter 120, ¶439.1 et seq.

² Chapter 120, ¶439.101 et seq.

³ Chapter 120, ¶440 et seq.

205/40.26. Motor fuel alcohol--Water tests

§40.26. To test alcohol to be used as a motor fuel component to insure it contains no more than 1.25% water by weight.

Added by P.A. 82-702, §1, eff. July 1, 1982.

205/40.27. Gasohol and other alcohol fuels

§40.27. To promote the use of gasohol and other alcohol fuels and to promote the utilization of agricultural crops for the production of alcohol fuels, particularly the use of by-products of such crops without diminishing the primary utilization of such crops.

Added by P.A. 83-439, §1, eff. Sept. 17, 1983.

Another ¶40.27 was renumbered as ¶40.28.

205/40.28. Forestry management--Farmland preservation

§40.28. To provide information and assistance to farmland owners in this State regarding the economic and soil and water conservation benefits that can be attained through forestry management on marginal lands; to promote farmland preservation.

Amended by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.31. Consulting service--Exports and foreign importers of farm products

§40.31. The Department of Agriculture in cooperation with the Department of Commerce and Community Affairs and the Agricultural Export Advisory Committee, shall (1) provide a consulting service to those who desire to export farm products, commodities and supplies, and guide them in their efforts to improve trade relations; (2) cooperate with agencies and instrumentalities of the Federal government to develop export grade standards for farm products, commodities and supplies produced in Illinois and shall adopt reasonable rules and regulations to insure that exports of such products, commodities and supplies, comply with such standards; (3) upon request and after inspection of any such farm product, commodity or supplies, certify compliance or noncompliance with such standards; (4)

provide an informational program to existing and potential foreign importers of farm products, commodities and supplies; (5) qualify for U. S. Department of Agriculture matching funds for overseas promotion of farm products, commodities and supplies according to the federal requirements regarding State expenditures that are eligible for matching funds; and (6) provide a consulting service to persons who desire to export processed or value-added agricultural products, and assist such persons in ascertaining legal and regulatory restrictions and market preferences which affect the sale of value-added agricultural products in foreign markets.

Formerly §40.1. Renumbered and amended by P.A. 83-445, §1, eff. Sept. 17, 1983.

205/40.31a. Repealed by P.A. 89-657, §25, eff. Aug. 14, 1996.

205/40.32. Meat and poultry

§40.32. To execute and administer the laws and rules pertaining to the slaughter, processing and sale of meat and poultry and products thereof.

Added by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.33. Laboratory services

§40.33. To provide laboratory services for the diagnosis of animal diseases, for the analysis of feeds, fertilizers, seeds and pesticides, and to perform related laboratory services.

Added by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.34. Agreements with United States Department of Agriculture

§40.34. To cooperate with and enter into agreements with the United States Department of Agriculture and with others in carrying out the powers and duties vested in the Department and to adopt guidelines, by reference, issued by federal agencies in carrying out its powers and duties.

Added by P.A. 84-295, §2, eff. Jan. 1, 1986.

205/40.35. Aquaculture development

§40.35. Aquaculture. To develop and implement a program to promote aquaculture in this State pursuant to the Aquaculture Development Act,¹ to promulgate the necessary rules and regulations and to cooperate with and seek the assistance of the Department of Natural Resources and the Department of Transportation in the implementation and enforcement of that Act.

Added by P.A. 85-856, §17, eff. Jan. 1, 1988.

Amended by P.A. 89-445, §9A-6, eff. Feb. 7, 1996.

¹ Chapter 5, ¶ 2301 et seq.

Another ¶ 40.35 was renumbered as ¶ 40.36.

205/40.36. "Illinois Grown" label program

§40.36. To administer the "Illinois Product" label program, whereby a label with the words "Illinois Product" on it may be placed on food and agribusiness commodities produced, processed or packaged in Illinois.

Formerly §40.35. Renumbered §40.36 and amended by P.A. 85-1209, Art. II, §2-99, eff. Aug. 30, 1988.

Amended by P.A. 90-385, § 2, eff. Aug. 15, 1997 and P.A. 90-403, § 2, eff. Aug 15, 1997.

Article II of P.A. 85-1209, the First 85th General Assembly Combining Revisory Act, resolved multiple actions in the 85th General Assembly and made certain technical corrections through P.A. 85-1014.

205/40.37. Criminal history record information--State Police Department

§40.37. Whenever the Department of Agriculture is authorized or required by law to consider some aspect of criminal history record information for the purpose of carrying out its statutory powers and responsibilities, then, upon request and payment of fees in conformance with the requirements of subsection 22 of Section 55a of "The Civil Administrative Code of Illinois",¹ the Department of State Police is authorized to furnish, pursuant to positive identification, such information contained in State files as is necessary to fulfill the request.

Added by P.A. 86-610, § 7, eff. July 1, 1990.

¹ Paragraph 55a of this chapter.

Another ¶ 40.37 was renumbered ¶ 40.38.

205/40.38. Cropland revegetation

§40.38. To develop data used in the Agricultural Lands Productivity Formula that is used in determining the success of revegetation of post-mining land for row-crop agricultural purposes in accordance with the Surface Coal Mining Land Conservation and Reclamation Act;¹ to cooperate with the Department of Mines and Minerals in determining the success of such cropland revegetation under the Surface Coal Mining Land Conservation and Reclamation Act; and to publish annually a Soil Master and County Cropped Acreage Manual, which is data derived from and used in the formula, but such manual is exempt from the rule-making requirements of the Illinois Administrative Procedure Act.²

Formerly § 40.36. Added by P.A. 86-232, §9, eff. Aug. 15, 1989. Renumbered § 40.38 and amended by P.A. 86-1028, Art. II, § 2-88, eff. Feb. 5, 1990.

¹ Chapter 96 1/2, ¶ 7901.01 et seq.

² Paragraph 1001 et seq. of this chapter.

P.A. 86-1028, Art. II, resolved multiple actions in the 86th General Assembly and made certain technical corrections in P.A. 86-1 through P.A. 86-1009.

205/40.39. Entry upon private or public property

§40.39. In accordance with constitutional limitations, and to the extent necessary to carry out the Department's powers and duties under paragraph 8 of Section 19 of the Pesticide Control Act, to enter at all reasonable times upon any private or public property.

Added by P.A. 86-1172, § 2, eff. Aug. 14, 1990.

205/40.40. Develop a ginseng marketing program

§40.40. To develop a ginseng marketing program for domestic and international markets.

Added by P.A. 87-0121, § 1, eff. Aug. 13, 1991.

205/40.41. Repealed by P.A. 89-657, §25, eff. Aug. 14, 1996.

40a to 40c. (L.1957, p. 571). Repealed by Law 1965, p. 1989, approved July 22, 1965, eff. Jan. 1, 1966.

§40.42. State Cooperative Extension Service Trust Fund. The Department of Agriculture shall deposit into the State Cooperative Extension Service Trust Fund, a trust fund created outside the State treasury and held by the State Treasurer as custodian, all funds appropriated to the Department as matching funds to support cooperative extension programs as provided in the County Cooperative Extension Law ¹. At the direction of the Treasurer of the University of Illinois, the Director of Agriculture shall direct the State Treasurer and the State Comptroller to transfer the trust funds to the University of Illinois as provided under Section 8(d) of the County Cooperative Extension Law. The Department shall not have responsibility for or control over the cooperative extension service or its programs because of this trust fund.

¹ 505 ILCS 45/1 et seq.

Added by P.A. 89-691, §2, eff. Dec. 31, 1996

620/41. Repealed by Laws 1951, p. 907, eff. July 1, 1951.

620/42. Title and interest to state fair grounds shall succeed to State

§42. The people of the State of Illinois shall succeed to all the right, title and interest of the State Board of Agriculture in and to the State fair grounds, and to all lands, buildings, money, unexpended appropriations or other property connected therewith.