



# The National Agricultural Law Center

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## USDA's United States Grain Standards Act: *Virginia*



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# A National Agricultural Law Center Research Publication

## USDA's United States Grain Standards Act: Virginia

Va. Code Ann. §§ 3.2-3400 through 3.2-3402

Va. Code Ann. §§ 3.4-4300; 3.2-4302; 3.2-4303; 3.2-4306; 3.2-4308; 3.2-4310; 3.2-4311

Va. Code Ann. §§ 3.2-4322 through 3.2-4327

### § 3.2-3400. Request of parties financially interested; fees to be deposited in Fund.

A. In order to promote, protect, further, and develop the agricultural interests of the Commonwealth, the Commissioner may, when requested by parties financially interested in a lot of any agricultural products, investigate and certify the quality, condition, grade, or other classification of such agricultural product, pursuant to regulations adopted by the Board, including prescribing payment of fees as the Commissioner deems reasonable for the services provided by employees or licensed agents of the Department.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Certification of Agricultural Products Trust Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys levied and collected pursuant to subsection A and § 3.2-4606 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to carry out the provisions of this chapter.

### § 3.2-3401. Licensing of agents.

The Commissioner may license as inspectors persons not in the employ of the Department. No person who is not an employee of the Department may act as a licensed inspector under this chapter unless samples from commodities graded or inspected by him are regularly graded or inspected by an employee of the Department, or of the U.S. Department of Agriculture.

### §3.2-3402. Certificates as evidence.

Certificates of inspection and reinspection issued under this chapter by authorized agents of the Department and those relating to the grade, classification, quality, or condition of agricultural products issued under authority of the Congress of the United States shall



be accepted in any court of the Commonwealth as prima facie evidence of the true grade, classification, condition, or quality of such agricultural product at the time of its inspection.

### **§ 3.2-4300. Definition.**

As used in this article, unless the context requires a different meaning, "agricultural product" means any horticultural, viticulture, dairy, livestock, poultry, bee, or other farm or garden product.

### **§ 3.2-4302. Establishment of grades, marks, and brands.**

The Commissioner may adopt regulations governing the voluntary use of grades, trademarks, brands, and other markings for agricultural products produced, packed, or marked in the Commonwealth. The regulations shall prescribe the:

- (i) grade, classification, quality, condition, size, variety, quantity, or other characteristics of such products; and
- (ii) marks identifying the party responsible for the grading and marking of such products.

### **§ 3.2-4303. Grades recommended by U.S. Department of Agriculture.**

The Commissioner, in carrying out the provisions of § 3.2-4302, shall adopt grades recommended or adopted by the U.S. Department of Agriculture if they are suitable for use in Virginia. If there is a demand for additional or different grades or standards by those persons in the Commonwealth producing and handling such products, the Commissioner may establish and adopt grades or standards that are additional to or different from those recommended or adopted by the U.S. Department of Agriculture.

### **§ 3.2-4306. Enforcement powers of Commissioner.**

The Commissioner shall enforce the provisions of this article and is empowered to:

1. Enter and inspect every place where agricultural products are produced, packed, stored for sale, shipped, delivered for shipment, in transit or offered for sale; and to inspect such places and any or all agricultural products, containing markings of any kind that indicate grade, classification, quality, condition, size, variety and quantity, and containers or equipment found at or in such places. It is unlawful for anyone to prevent, hinder or interfere with the Commissioner or his agent in the exercise of any power under this subdivision;
2. To approve, superintend, control and discharge such inspectors, subordinate inspectors and agents as in his discretion may be deemed necessary for the



purpose of enforcing the provisions of this article; and to prescribe their duties and fix their compensation;

3. Prohibit the movement of any agricultural product found to be marked in violation of any of the provisions of this article, prior to the product being accepted by a common carrier for shipment in interstate transit. Such product shall be repacked or remarked. A lot of any agricultural product shall not be considered accepted by a common carrier until the common carrier is loaded, sealed, and the bill of lading issued; and

4. Cause to be instituted through the attorney for the Commonwealth prosecutions for violations of this article.

### **§ 3.2-4308. Grades and brands shall be used in accordance with regulations.**

It is unlawful to use:

1. Any grade, trademark, brand, or other markings established and adopted by the Commissioner on or in connection with marking any agricultural product that is not in accordance with regulations established and adopted by the Commissioner.

2. Any grade, trademark, brand, or other markings indicating grade, classification, quality, condition or size, for any agricultural product for which official grades, trademarks, brands, or other markings have not been established and adopted by the Commissioner or are not in accordance with the provisions of § 3.2-4304.

### **§ 3.2-4310. Penalty for violation.**

Any person who violates any of the provisions of this article is guilty of a Class 3 misdemeanor.

### **§ 3.2-4311. Defenses to prosecution.**

No person shall be convicted under the provisions of this article if:

1. The person is not a party to the packing, grading, or marking of such product; or
2. The agricultural product has passed inspection by an authorized inspector in the voluntary inspection service of the Department, or the U.S. Department of Agriculture, and found to be marked in accordance with the requirements of this article.

### **§ 3.2-4322. Definitions.**

As used in this article, unless the context requires a different meaning:

"Grain" means corn (maize), wheat, rye, oats, barley, flaxseed, soybeans, and such other grains as the usages of the trade may warrant and permit.



"Handler" means a person who buys grain for resale as grain or grain products.

**§ 3.2-4323. Commissioner authorized to require registration; forms.**

The Commissioner may require all handlers to register on forms prepared for that purpose. Such forms shall require the handler to state his name, address, and the county or city where he shall weigh and grade grain.

**§ 3.2-4324. Regulations.**

The Board may adopt regulations relating to the handling of grain in the Commonwealth, including:

1. The weighing devices, approved under the Virginia Weights and Measures Law (§ 3.2-5600 et seq.) and the procedures employed to give accurate weights.
2. The grading equipment that is acceptable in administering the United States Grain Standards Act and the use of grading equipment to be used in determining the value of grain. Such use of such equipment shall be pursuant to procedures employed by inspectors licensed under the United States Grain Standards Act.
3. Samples of lots graded by other than a Virginia licensed inspector and the lot discounted shall be identity preserved for 24 hours.
4. The keeping of records in accordance with good business practices.

**§ 3.2-4325. Grain handlers to register if required by Commissioner.**

All persons before operating as a handler in the Commonwealth shall register with the Commissioner.

**§ 3.2-4326. Grain to be purchased from registered handlers.**

It is unlawful to buy grain for resale as grain or grain products unless bought by a handler registered by the Commissioner.

**§ 3.2-4327. Violation of article.**

Any person who violates any of the provisions of this article or regulations established by the Board hereunder is guilty of a Class 1 misdemeanor.

