



Georgia General Assembly

Unannotated Georgia Code

VIDALIA ONION ACT OF 1986

2-14-130.

This article shall be known and may be cited as the 'Vidalia Onion Act of 1986.'

2-14-131.

As used in this article, the term:

- (1) 'Person' means an individual, partnership, corporation, association, or any other legal entity.
- (2) 'Shipping date' means the first day on which Vidalia onions may be shipped for sale.
- (3) 'Vidalia onion' means all onions of the Vidalia onion variety grown in the Vidalia onion production area.
- (4) 'Vidalia Onion Advisory Panel' means the advisory panel established pursuant to Code Section 2-14-138.
- (5) 'Vidalia onion production area' means a production area which encompasses only the State of Georgia or such lesser area as may be provided for pursuant to subsection (a) of Code Section 2-14-133.
- (6) 'Vidalia onion variety' means varieties of *Allium Cepa* of the hybrid yellow granex, granex parentage, or other similar varieties. The Commissioner may limit the usage of certain varieties or authorize the inclusion of new varieties based upon recommendations of the director of the Experiment Stations of the College of Agricultural and Environmental Sciences of the University of Georgia.

2-14-132.

Only onions which are of the Vidalia onion variety and which are grown within the Vidalia onion production area may be identified, classified, packaged, labeled, or otherwise designated for sale inside or outside this state as Vidalia onions. The term 'Vidalia' may be used in connection with the labeling, packaging, classifying, or identifying of onions for sale inside or outside this state only if the onions are of the Vidalia onion variety and are grown in the Vidalia onion production area.

2-14-132.1.

The Commissioner of Agriculture is authorized to take all actions necessary and appropriate to create, register, license, promote, and protect a trademark for use on or in connection with the sale or promotion of Vidalia onions and products containing Vidalia onions. The Commissioner is authorized to impose and collect a royalty or license fee for the use of such trademark on products containing Vidalia onions or the packaging containing such onion products. Such royalty and license fee shall not exceed 0.5¢ for each six ounces, or portion thereof, of product in connection with all products with which such trademark is used. Funds derived from such royalties and license fees shall be retained by the Commissioner and shall be used to promote Vidalia onions and to pay costs associated with monitoring the use of such trademark, prohibiting the unlawful or unauthorized use of the trademark, and enforcing rights in the trademark.

2-14-133.

(a) The Commissioner is authorized to prescribe rules or regulations which may include, but not necessarily be limited to, quality standards, grades, packing, handling, labeling, and marketing practices for the marketing of onions in this state, including the requirements that all Vidalia onions be initially packed only in the Vidalia onion production area and that no Vidalia onion may be shipped from the Vidalia onion production area in bulk except as may be authorized by rule, and such other regulations as are necessary to administer properly this article. The Commissioner may also prescribe rules or regulations establishing a registration, inspection, and verification program for the production and marketing of Vidalia onions in this state and, after hearing and public comment, further limiting the Vidalia onion production area as defined in paragraph (5) of Code Section 2-14-131. Pursuant to such rules, regulations, and conditions as may be prescribed by the Commissioner, the Commissioner is authorized to grant variances in the production area requirements of this article to any producer who has produced in Georgia, marketed, and labeled onions of the Vidalia onion variety as Vidalia onions prior to January 31, 1986. Such rules or regulations may include within the definition of Vidalia onion variety as defined in paragraph (6) of Code Section 2-14-131 other hybrids or varieties of onions which may be developed and which have characteristics similar to the Vidalia onion variety. All onions sold must conform to the prescribed standards and grades and must be labeled accordingly.

(b) The Commissioner and his agents and employees are authorized to enter any premises or other property where onions are produced, stored, sold, offered for sale, packaged for sale, transported, or delivered to inspect such onions for the purpose of enforcing the provisions of this article and the rules and regulations promulgated under this article.

2-14-134.

(a) It shall be unlawful for any person to sell or offer for sale either inside or outside this state any onions as Vidalia onions unless such onions are of the Vidalia onion variety and were grown in the Vidalia onion production area.

(b) It shall be unlawful for any person to package, label, identify, or classify any onions for sale inside or outside this state as Vidalia onions or to use the term 'Vidalia' in connection with the labeling, packaging, classifying, or identifying of onions for sale inside or outside this state unless such onions are of the Vidalia onion variety and were grown in the Vidalia onion production area.

(c) Any person who violates subsection (a) or (b) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 or by imprisonment for not less than one nor more than three years, or both.

(d) It shall be unlawful for any person to sell onions in a manner which does not comply with the rules or regulations established by the Commissioner under authority of Code Section 2-14-133.

2-14-135.

(a) Any person who violates any provision of this article or who violates any rule or regulation issued by the Commissioner pursuant to this article shall be liable for a civil penalty in an amount not to exceed \$5,000.00 for each and every violation thereof, the amount of such penalty to be fixed by the Commissioner after notice and hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' for contested cases. Each day of violation shall constitute a separate violation for purposes of this subsection but in no event shall the penalty exceed \$20,000.00. Any moneys recovered pursuant to this Code section shall be deposited in the state treasury.

(b) Whenever in the judgment of the Commissioner any person has engaged in or is about to engage in any act or practice which constitutes or will constitute any violation of this article, the Commissioner may make application to the superior court of the county where such person resides or, if a nonresident of this state, to the superior court of the county where such person is engaged in or is about to engage in such act or practice, for an order enjoining and restraining such act or practice. If it appears to the court, upon any application for a temporary restraining order or upon any application for an interlocutory or permanent injunction, after evidence is received, that any person has engaged in or is about to engage in any act or practice which constitutes or will constitute any violation of this article or any rule or regulation duly issued by the Commissioner under this article, then the court shall enjoin the defendant from committing further violations. It shall not be necessary in such event to allege or prove lack of an adequate remedy at law.

(c) In any court action brought by the Commissioner to enforce any of the provisions of this article or any rule or regulation issued by the Commissioner, the judgment, if in favor of the Commissioner, shall provide that defendant pay to the Commissioner all costs and expenses incurred by the Commissioner in the prosecution of such action.

(d) The Commissioner may file in the superior court of the county wherein the person under order resides, or, if the person is a corporation, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred or in which jurisdiction is appropriate, a certified copy of a final administrative order of the Commissioner unappealed from or a final administrative order of the Commissioner affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though the judgment had been rendered in an action duly heard and determined by such court.

2-14-136.

The Commissioner may determine and announce a shipping date each year for the Vidalia onion marketing season in this state upon the recommendation of the Vidalia Onion Advisory

Panel. Vidalia onions may be shipped prior to such date with a mandatory U.S. No. 1 grade certificate. The Vidalia Onion Advisory Panel shall survey the conditions of the Vidalia onion crop and recommend a shipping date for the marketing season to the Commissioner.

2-14-137.

The standards for grades adopted by the U.S. Department of Agriculture, U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions, effective January 1, 1960, as amended March 18, 1962, and February 20, 1985, (7 CFR 51.3195-51.3209), December 31, 1981, and U.S. Standards for Grades of Common Green Onions (7 CFR 51.1055-51.1071) December 31, 1981, are adopted and shall be the standards for grades in this state, except that the Commissioner may establish tolerances or allowable percentages of U.S. Standards each season upon the recommendation of the Vidalia Onion Advisory Panel.

2-14-138.

The Commissioner shall appoint a Vidalia Onion Advisory Panel, to consist of individuals involved in growing, packing, or growing and packing Vidalia onions; at least one county cooperative extension agent from the Vidalia onion production area; and any other person or persons selected by the Commissioner, for the purpose of rendering advice upon his or her request regarding the exercise of his or her authority pursuant to Code Sections 2-14-136 and 2-14-137. Members of the advisory panel shall receive no compensation for their service as such members.