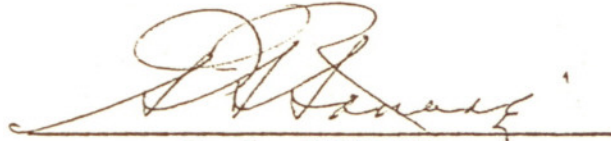


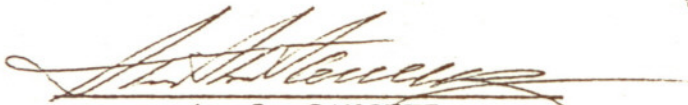
Guam Territorial Law Library  
141 San Ramon Rd.  
Agana, Guam 96910

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Bill No. 846, "An Act to repeal Section 12108 of the Government Code of Guam and to add a new Chapter VI to Title XII of said Code relating to the storing, marketing, processing, labeling and transporting of eggs", was on the 24th day of November, 1972, duly and regularly passed.

  
F. T. RAMIREZ  
Speaker


ATTESTED:

  
A. C. SANCHEZ  
Acting Legislative Secretary

-----  
This Act was received by the Governor this 5<sup>th</sup> day  
of December, 1972 at 3:00 o'clock P. M.

  
VINCENT T. PEREZ  
Attorney General of Guam

APPROVED:

  
CARLOS G. SAMACHO  
Governor of Guam

DATED: DEC 15 1972  
9:15 a.m.

Public Law  
11-205

RECEIVED  
MAR 16 1986  
GUAM TERRITORIAL  
LAW LIBRARY

ELEVENTH GUAM LEGISLATURE  
1972 (SECOND) Regular Session

Bill No. 846  
Substitute Bill by  
Committee on Agriculture,  
Resources and Development

Introduced by P. J. Bordallo

AN ACT TO REPEAL SECTION 12108 OF THE  
GOVERNMENT CODE OF GUAM AND TO ADD A  
NEW CHAPTER VI TO TITLE XII OF SAID  
CODE RELATING TO THE STORING, MARKETING,  
PROCESSING, LABELING AND TRANSPORTING  
OF EGGS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Chapter VI is hereby added to Title XIII  
3 of the Government Code of Guam to read as follows:

4 "CHAPTER VI

5 Chicken Eggs

6 Section 12500. Definitions. As used in this Chapter,  
7 unless the context clearly requires a different  
8 construction:

9 (a) 'Consumer' means any person who acquires eggs  
10 for consumption in his own household and not for resale.

11 (b) 'Container' means any box, case, basket, carton,  
12 sack, bag or other receptacle containing six eggs or more.

13 (c) 'Department' means the Department of Agriculture.

14 (d) 'Director' means the Director of Agriculture.

15 (e) 'Eggs' means eggs in the shell that are the  
16 product of domesticated chickens.

17 (f) 'Grade' means specifications defining the limits  
18 of variation in quality of eggs in such a manner as to  
19 differentiate among classes of eggs, and the letter,  
20 number or other symbol by which reference thereto may  
21 be made.



1 (g) 'Institutional Consumer' means a restaurant,  
2 hotel, boarding house, or any other business, facility,  
3 or place in which eggs are prepared or offered as food  
4 for use by its patrons, residents, inmates or patients.

5 (h) 'Market' means sell, offer for sale, give in  
6 the channels of commerce, barter, exchange, or distribute  
7 in any manner.

8 (i) 'Person' means any individual, producer, firm,  
9 partnership, exchange, association, trustee, receiver,  
10 corporation, or any other entity and any member, officer,  
11 employee or agent thereof.

12 (j) 'Producer' shall mean a person who markets  
13 eggs of his own hens' production.

14 (k) 'Retailer' means any person who markets eggs  
15 to ultimate consumers.

16 (l) 'Size-weight class' means the size of eggs to  
17 be determined by weighing pursuant to standards or classi-  
18 fications for size which are adopted and promulgated by  
19 this Chapter.

20 (m) 'Standard' means specifications of the physical  
21 characteristics of any or all of the component parts of  
22 individual eggs.

23 Section 12501. Inedible eggs: marketing prohibited:  
24 exception. No person shall market any inedible eggs, as  
25 defined under the Federal Food, Drug and Cosmetic Act,  
26 as amended, or incubated eggs except that such inedible  
27 and incubated eggs may be sold as commercial feed or for  
28 other commercial purposes other than human consumption,  
29 provided such eggs shall be broken and denatured on  
30 the premises where produced, in a manner approved by  
31 the Department.

32 Section 12502. Standards: grades: size-weight

1 classes. The Department shall establish, and from time  
2 to time, may amend or revise standards, grades, and  
3 size-weight classes for eggs marketed in this territory.  
4 In administering this section, the Department shall have  
5 due regard for the desirability of uniformity in the  
6 standards, grades, and size-weight classes for eggs  
7 moving in intrastate and interstate commerce and shall,  
8 so far as practical, employ standards, grades, or size-  
9 weight classes developed by the United States Department  
10 of Agriculture. Except as specifically provided in  
11 Section 12509 the standards of quality, grades and the  
12 size-weight classes established by the Department  
13 pursuant to this section shall apply to all eggs marketed  
14 in the territory by any person.

15 Section 12503. Department of Agriculture: certifi-  
16 cation service: fees. (a) The Department shall, upon  
17 request, provide the services of a qualified eggs  
18 inspector to inspect and certify eggs produced within  
19 and imported into the territory as to specific grades,  
20 standards of quality, condition, and size-weight classes  
21 required pursuant to Section 12502.

22 (b) The Department shall establish rules and  
23 regulations with respect to the procedure for inspection  
24 and certification and assessment and collection of fees  
25 for requested inspection and certification; provided,  
26 however, the rate for such service shall not exceed  
27 Three Dollars and Fifty Cents (\$3.50) per hour for each  
28 inspector; provided further that producers having less  
29 than two thousand (2,000) layers in production shall not  
30 be assessed any fee for the services under this section.

31 (c) The inspection fee levied hereunder shall be  
32 paid by the person first marketing eggs within the



1 territory and such inspection and certification fee  
2 shall be paid but once on the same quantity of eggs  
3 so long as such eggs remain in their original container.  
4 The inspection fee levied hereunder shall be deposited  
5 in the General Fund of the government of Guam.

6 Section 12504. Labeling and Advertising. (a) The  
7 container in which any eggs are marketed in this territory  
8 shall bear prominently on the outside portion thereof the  
9 following information:

10 (1) The grade of the eggs and the date when the  
11 eggs were graded;

12 (2) The size-weight class of the eggs;

13 (3) The word 'eggs';

14 (4) The numerical count of the contents;

15 (5) The name and address of the packer or  
16 if the packer is not located within the territory  
17 the name and address of the distributor; and

18 (6) The country of origin of the eggs.

19 (b) Eggs marketed in any manner other than in  
20 containers labeled in accordance with paragraph (a) shall  
21 be kept in full view of prospective purchasers and shall  
22 have adjacent thereto, and prominently displayed, a sign  
23 or similar device bearing the information required by  
24 Paragraph (a) of this section. Any such sign or device shall  
25 bear letters and numbers of such character and size and  
26 shall be required by the Department pursuant to its rules  
27 and regulations.

28 (c) The term 'fresh eggs', or any legend, symbol,  
29 picture, representation or device declaring or tending  
30 to convey the impression that the eggs are fresh may  
31 be applied only to eggs meeting the requirements of grade  
32 or grades established by the Department for 'fresh eggs'

1 and may not be applied to any eggs held in cold storage  
2 for more than thirty (30) days.

3 (d) The terms 'Guam', 'locally produced', 'chada  
4 fresco', or any legend, symbol, picture, representation or  
5 device declaring or tending to convey the impression that  
6 the eggs are produced on Guam may be applied only to eggs  
7 produced in this territory.

8 (e) No label, container, display or advertisement  
9 of eggs shall contain incorrect, fraudulent, or misleading  
10 representations. No person shall advertise eggs for sale  
11 unless the unabbreviated grade, the size-weight class  
12 and the country of origin are conspicuously designated in  
13 block letters at least half as high as the tallest letter  
14 in the word 'eggs' or the tallest figure in the price,  
15 which ever is larger.

16 (f) Letters and numerals used to designate the grade  
17 and size-weight class of eggs marketed in containers shall  
18 be in clear, bold faced type and of a size as shall be  
19 required by the Department pursuant to its rules and  
20 regulations. Cartons, cases, crates, or other containers  
21 holding two or more smaller containers of eggs shall also  
22 be lettered and numbered in accordance with the provisions  
23 of this paragraph. Any carton, case, crate, or other  
24 container which is reused shall upon such reuse have  
25 obliterated or removed therefrom any labels, lettering,  
26 numerals, or other symbols or representations not applicable  
27 to the contents upon such reuse.

28 (g) If eggs are stored for more than thirty (30)  
29 days after the date of grading, they shall not be marketed  
30 within the territory unless, if the sale is to a retailer or  
31 institutional consumer, the fact of such cold storage is  
32 disclosed on the invoice for the transaction, and if the



1 sale is to a consumer, the fact of such cold storage is  
2 disclosed on a sign or similar device prominently displayed  
3 adjacent to the eggs and kept in full view of prospective  
4 consumers. The Department shall adopt such other rules and  
5 regulations as will insure that retailers, institutional  
6 consumers and consumers are adequately informed as to the  
7 fact of such cold storage, including but not limited to the  
8 form of the invoice and rules governing the size of the  
9 sign and the size of the lettering on such sign.

10 Section 12505. Invoices. Any person marketing eggs  
11 to a retailer or institutional consumer shall furnish to  
12 such purchaser at the time of delivery of the eggs an  
13 invoice showing the date of sale, name and address of the  
14 seller, name of purchasers, quantity, country of origin,  
15 grade and size-weight class of the eggs delivered. The  
16 invoice or a copy thereof shall be kept on file by the  
17 seller and the purchaser at their respective places of  
18 business for a period of at least sixty (60) days.

19 Section 12506. Sanitation and handling: temperature:  
20 packing: Department rules and regulations. (a) Any person  
21 assembling, transporting, marketing, processing, storing  
22 or displaying eggs for marketing shall keep the eggs at  
23 a temperature not higher than forty-five degrees Fahrenheit  
24 (45 F) nor lower than thirty-five degrees Fahrenheit (35 F).  
25 Each storage or display facility shall be provided with  
26 an indicating thermometer accurate to plus or minus two  
27 degrees Fahrenheit (+2 F), located in the warmest part  
28 of the facility in which the eggs are stored or displayed  
29 and of such type and so situated that the thermometer can  
30 be easily and readily observed for reading.

31 (b) Any container, including the packaging material  
32 therein or associated therewith, shall be clean, unbroken,

1 and free from foreign odor.

2 (c) The Department shall by rules and regulations  
3 provide for the keeping, processing, transporting, and  
4 the marketing of eggs under sanitary conditions.

5 (d) Nothing in this Chapter or in any rules or  
6 regulations of the Department shall be construed to exempt  
7 any persons or premises from the application thereto of  
8 any laws otherwise applicable and relating to the operation  
9 of establishments or facilities for the storing, transport-  
10 ing, sale, distribution, preparation, or serving of food.

11 Section 12507. Right of entry and inspection. The  
12 Department, acting by any duly authorized officer, employee,  
13 or agent, may enter on or into any premises or any vehicle  
14 where eggs are bought, stored, sold, offered for sale,  
15 processed, or transported, or wherein the Department has  
16 reason to believe that any such activity is carried on, in  
17 order to inspect and examine eggs, egg containers, and any  
18 equipment, facilities or records pertinent to the conduct  
19 of activities subject to the provisions of this Chapter  
20 or rules or regulations implementing the same, or to  
21 ascertain the state of compliance with any order issued  
22 by the Department pursuant to this Chapter.

23 Section 12508. Stop sale order and seizure. (a) If,  
24 after inspection, the Department determines that any  
25 eggs are being marketed, displayed, stored, processed,  
26 or transported in violation of this Chapter or rules or  
27 regulations implementing the same, the Director may issue  
28 a stop sale order as to such eggs directed to the owner  
29 or custodian thereof. Such order shall specify the  
30 reason for its issuance and shall detail the character  
31 of the violation. No eggs to which a stop sale order  
32 applies shall be marketed until and unless the order



1 has been withdrawn. The Department shall withdraw a stop  
2 sale order only upon its determination that the conditions  
3 leading to the issuance of the order have been corrected.

4 (b) Whenever the public interest requires, the  
5 Department may take possession or custody of the eggs  
6 against which a stop sale order has been issued and may  
7 commence proceedings for the seizure thereof. Upon seizure  
8 and proof of violation the eggs shall be disposed of in  
9 such manner as may be consistent with the public safety  
10 and interest. The owner or custodian of the eggs shall  
11 not be entitled to any compensation or damages on account  
12 of such seizure or disposition.

13 Section 12509. Exceptions: producers: shippers.

14 (a) Producers marketing eggs direct to a consumer and  
15 other premises where produced only are excepted from  
16 the coverage of this Chapter.

17 (b) All types of shippers marketing eggs to a  
18 first receiver within the territory who will grade them  
19 into the proper grade and size-weight before reselling  
20 are excepted from the coverage of this Chapter.

21 Section 12510. Rule making. The Department may,  
22 subject to the Administrative Adjudication Act, make  
23 and amend, from time to time, such rules and regulations  
24 as may be necessary to administer and implement the  
25 provisions of this Chapter.

26 Section 12511. Enforcement. The Department is  
27 empowered through its authorized officers, employees,  
28 agents, and inspectors to enforce the provisions of  
29 this Chapter and to have supervision and control of all  
30 officers in Guam enforcing this Chapter.

31 Section 12512. Misdemeanor. Any person who violates  
32 any provision of this Chapter or any rule or regulation

1 issued pursuant thereto shall be guilty of a misdemeanor  
2 and subject to a fine or not less than One Hundred Dollars  
3 (\$100.00) nor more than Five Hundred Dollars (\$500.00),  
4 or to imprisonment for not more than sixty (60) days, or  
5 both.

6 Section 12513. Injunction: civil penalties: (a) The  
7 Department, acting by the Attorney General may enforce  
8 any provision of this Chapter or any rule or regulation  
9 issued pursuant thereto by bringing an action in the  
10 Island Court for an injunction.

11 (b) If the court issues an injunction under this  
12 section, it shall retain jurisdiction, and the action  
13 shall be continued, and in such cases the Attorney  
14 General acting in the name of the territory may upon  
15 a violation of the terms of an injunction, petition the  
16 court for recovery of civil penalties in the amount  
17 of One Thousand Dollars (\$1,000) for each day in violation  
18 of the terms of the injunction.

19 Section 12514. Private remedy: injunction: bond:  
20 attorney's fee and cost. (a) Whether he seeks or is  
21 entitled to damages or otherwise has an adequate remedy  
22 at law any person may bring an action in the Island  
23 Court to enjoin, in accordance with the principles of  
24 equity, any person who has violated, is violating, or  
25 is likely to violate the provisions of this Chapter or  
26 any rule, or regulation issued pursuant thereto.

27 (b) No security shall be required for the issuance  
28 of any restraining order or preliminary injunction in an  
29 action brought under this section.

30 (c) In any action brought by a person under this  
31 section, the court may award, in addition to the relief pro-  
32 vided in this section, reasonable attorney's fees and costs.



1           Section 12515. Remedies not exclusive. The  
2 institution of proceedings for the application of any  
3 remedy available pursuant to this Chapter, or the issuance  
4 of any order on account thereof, or the imposition of  
5 any fine or penalty pursuant to this Chapter, shall  
6 not operate as a bar or limitation to the application  
7 of any other remedy available pursuant to this Chapter  
8 or pursuant to any other applicable law.

9           Section 12516. Judicial review. Any determinations  
10 or final actions of the Department taken pursuant to or  
11 under color of this Chapter shall be reviewable in  
12 accordance with the Administrative Adjudication Act  
13 by a proceeding in the Island Court, except that orders  
14 issued pursuant to Section 12508 (a) and the taking  
15 possession or custody of eggs or containers of eggs  
16 pursuant to Section 12508 (b) shall have the status of  
17 emergency actions necessary for the protection of the  
18 public health and shall not be subject to injunction or  
19 stay.

20           Section 12517. Severability. The provisions of this  
21 Chapter are severable, and if any of its provisions or  
22 their application to any person or circumstances shall be  
23 held unconstitutional or invalid by a court of competent  
24 jurisdiction, the decision of the court shall not affect or  
25 impair any of the remaining provisions or applications of  
26 this Chapter which can be given effect without the  
27 invalid provision or application.

28           Section 12518. Laws repealed. The provisions of  
29 This Chapter are cumulative and shall not be construed  
30 to repeal any laws or parts of laws not in conflict  
31 herewith."

1           Section 2. Section 12108 of the Government Code of Guam  
2 is hereby repealed in its entirety.

3           Section 3. The provisions of this Act shall become  
4 effective January 1, 1973.