

Agricultural Crimes



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§708-831 Theft in the second degree. (Agricultural Supplies or Products)

(d) Of agricultural equipment, supplies, or products, or part thereof, the value of which exceeds \$100 but does not exceed \$20,000, or of agricultural products that exceed twenty-five pounds, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: "Private Property". The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land in a manner and in such position as to be clearly noticeable from outside the boundary line. Possession of agricultural products without ownership and movement certificates, when a certificate is required pursuant to chapter 145, is prima facie evidence that the products are or have been stolen.

§708-831 Theft in the second degree. (Agricultural Supplies or Products)

Agricultural equipment, supplies, or products" mean any agricultural equipment, supplies, or commercial agricultural products or commodities raised, grown, or maintained by a commercial agricultural enterprise or research agency while owned by the enterprise or agency

§708-831 Theft in the second degree Penalty.

(2) Theft in the second degree is a class C felony. A person convicted of committing the offense of theft in the second degree under [subsection (1)](c) and (d) shall be sentenced in accordance with chapter 706, except that for the first offense, the court may impose a minimum sentence of a fine of at least \$1,000 or two-fold damages sustained by the victim, whichever is greater.

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§145-22 Agricultural commodities; ownership and movement certification

(a) Every person, upon sale of any agricultural commodity or upon transportation of lots of any agricultural commodity of more than two hundred pounds or with a value of at least \$100 that is marketed for commercial purposes, shall complete a certificate describing the commodity and indicating:

(1) The seller's name, residence address, telephone number and license plate number of any vehicle used by the seller to deliver the commodity to the place of purchase;

- (2) The name of the farm owner and address of origin;**
- (3) The name of the buyer or consignee,**
- (4) The destination.**

§145-22 Agricultural commodities; ownership and movement certification cont.

(b) Prior to completing the certificate, the buyer or consignee shall also require the seller to verify the seller's identity by having the seller present a valid photo identification card or license issued to the seller by a federal or state government agency. If the commodity being offered for sale has a value of \$300 or more, the seller shall also provide the buyer with a photocopy of the identification card or license of the seller.

§145-22 Agricultural commodities; ownership and movement certification cont.

(c) No prospective buyer or consignee shall purchase an agricultural commodity from a seller if the seller does not provide a copy of the ownership and movement certification and verification as required by subsections (a) and (b). Every prospective buyer or consignee shall report an attempted sale that does not meet the requirements of subsections (a) and (b) to the police.

§145-22 Agricultural commodities; ownership and movement certification cont.

(d) Two copies of the certificate shall accompany the shipment, and one copy each shall be retained by the seller and the buyer or consignee. One of the copies of the certificate shall be presented upon request to a state or county law enforcement officer or other officer, employee, or any other person authorized and designated by the board of agriculture to investigate and enforce this chapter and all rules adopted by the department pursuant thereto.

AGRICULTURE PRODUCTS OWNERSHIP & MOVEMENT CERTIFICATE

Please complete two copies of this certificate every time you sell or ship your products to a buyer. The completed certificate shall accompany the sales/shipment. Make sure you keep a copy of the certificate that accompanies each product shipment for your file.

Identify the product sold or shipped: _____

Name of Farm or Owner that sell the product: _____

Name of the Buyer: _____

Name of Farm where the product was grown; _____

Where is the product going: _____

Signature of the Seller: _____

Signature of the Buyer: _____

Date of Sales/Shipment: _____

§145-21 Definitions.

"Agricultural commodity" means any fruit, nut, or vegetable that is the food product of any tree, vine, or plant, or any aquacultural, horticultural, silvicultural, or floricultural product.

"Person" means any individual, firm, corporation, partnership, or association.

§145-23 Lack of proof of ownership as a violation.

The failure of any person who sells, transports, or possesses after sale or transport, agricultural commodities to maintain a certificate of ownership or other written proof of ownership of the agricultural commodity, as described in section 145-22, is a violation of this part and also prima facie evidence of an offense under section 708-831(1)(e) (THEFT IN THE 2ND DEGREE)

§145-24 Authorization to inspect.

Every law enforcement officer or other officer or employee as described in section 145-25 having probable cause to believe that the possession, sale, or transportation of agricultural commodities is unlawful, may take reasonable steps to detain the person having possession, selling, or transporting the agricultural commodities and request from the person being detained proof of ownership of the commodities.

**§145-25 Enforcement;
citation and summons.**

(1) A violation in which the value of the agricultural commodity exceeds \$100 shall be a class C felony; and

(2) A violation in which the value of the agricultural commodity is \$100 or less shall be a misdemeanor.

§145-27 Authorization to seize and hold commodities; disposition.

Upon reasonable belief that the person is in unlawful possession of agricultural commodities a law enforcement officer or other officer or employee as described in section 145-25 shall be authorized to hold the agricultural commodity for not longer than forty-eight hours to investigate and ascertain the ownership of the agricultural commodity. If the lawful owner is determined and located, the agricultural, aquacultural, or horticultural commodity shall be released to the lawful owner.

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(b) If for any reason the agricultural commodity is not released to the lawful owner after being in the custody of the law enforcement officer or other officer or employee as described in section 145-25 for forty-eight hours, or less in the case of highly perishable commodities, the commodity may be sold at fair market value to any retailer, wholesaler, or packer of the commodity. All of the proceeds derived from the sale shall be held by the law enforcement officer or other officer or employee as described in section 145-25 for not longer than six months, during which time the lawful owner of the commodity may submit satisfactory proof of ownership and obtain possession of the proceeds.

The owner may be held responsible for any costs and expenses that may be incurred by the law enforcement officer or other officer or employee as described in section 145-25. Any proceeds of sale not recovered within six months for lack of a claim or for insufficient proof shall be treated as unclaimed property of the State.

(c) Any commodity that remains unsold after being offered for sale pursuant to this section may be donated to a nonprofit charitable organization or destroyed at the discretion of the law enforcement officer or other officer or employee as described in section 145-25. [L 1999, c 186, pt of §2]

Agricultural commodities; ownership and movement certification

- Vendors must report who they bought their produce from
- Enforced by the Community Police Officers as well as the Farmers Market Managers



§708-821 Criminal property damage in the second degree.

(1) A person commits the offense of criminal property damage in the second degree if by means other than fire:

c) The person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other's consent, in an amount exceeding \$500. In calculating the amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.

(2) Criminal property damage in the second degree is a class C felony.

New AG LAWS

Effective July 1, 2011

§708-814 Criminal trespass in the second degree.

(1) A person commits the offense of criminal trespass in the second degree if:

(c) The person enters or remains unlawfully on agricultural lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the agricultural lands:

§708-814 Criminal trespass in the second degree.

(i) **Are fenced, enclosed, or secured in a manner designed to exclude intruders;**

(ii) **Have a sign or signs displayed on the unenclosed cultivated or uncultivated agricultural land sufficient to give notice and reading as follows: "Private Property". The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line; or**

(iii) At the time of entry, are fallow or have a visible presence livestock or a crop:

(A) Under cultivation;

(B) In the process of being harvested; or

(C) That has been harvested.

A person commits the offense of criminal trespass in the second degree if:

(d) The person enters or remains unlawfully on unimproved or unused lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the lands:

(i) Are fenced, enclosed, or secured in a manner designed to exclude the general public; or

(ii) Have a sign or signs displayed on the unenclosed, unimproved, or unused land sufficient to give reasonable notice and reads as follows: "Private Property – No Trespassing", "Government Property – No Trespassing", or a substantially similar message; provided that the sign or signs shall contain letters not less than two inches in height and shall be placed at reasonable intervals along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line.

- The NEW LAW will add visible presence of livestock (before was only crop) and fallow lands, making it a criminal trespass violation:
- if the Property has a Fence OR
- signage OR
- visible presence of a crop OR livestock OR is fallow.

"§663- Trespass; limited liability of agricultural land owner.

(a) An owner of agricultural land shall not be liable for any injury, death, loss, or damage suffered by a trespasser on the owner's agricultural land, unless the injury, death, loss, or damage was:

- (1) Intentionally inflicted upon the trespasser by the owner of the land; or
- (2) Caused by the gross negligence of the owner of the land.

Definition of "Agricultural land" means any land in excess of four acres used primarily for a farming operation, as defined in section 165-2; provided that the term shall include land used for farm buildings and dwellings and roads and irrigation infrastructure associated with the agricultural land.

QUESTIONS?

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