

## **O.C.G.A. Title 10, Ch. 1, Art. 8**

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3)***

### **Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze**

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# O.C.G.A. Title 10, Ch. 1, Art. 8, Pt. 1

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 1 Petroleum Products (§§ 10-1-140 — 10-1-169)***

## **PART 1 Petroleum Products**

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# O.C.G.A. § 10-1-140

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## 10-1-140. Definitions.

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As used in this part, the term:

- (1) “Gasoline” means gasoline, naphtha, benzol, and other products of petroleum, under whatever name designated, used for heating or power purposes.
- (2) “Kerosene” means kerosene and other products of petroleum, under whatever name designated, used for illuminating, heating, or cooking purposes.
- (3) “Lubricating oils” means rerefined, reprocessed, or reconditioned used oils as well as virgin petroleum oils or blends thereof.

## History

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Ga. L. 1927, p. 279, § 1; Code 1933, § 73-209; Ga. L. 1979, p. 981, § 2.

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## O.C.G.A. § 10-1-141

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### **10-1-141. “Petroleum products” not to include liquefied petroleum gas.**

The term “petroleum products,” as used in this part, shall in no way be construed to include liquefied petroleum gas as defined in Code Section 10-1-262.

### **History**

Ga. L. 1960, p. 1043, § 18.

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## O.C.G.A. § 10-1-142

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### **10-1-142. Appointment and duties of state oil chemist.**

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The Commissioner of Agriculture is required to appoint, in accordance with Chapter 20 of Title 45, a chemist, who shall be an expert oil analyst, to be designated as the state oil chemist, whose duty it shall be to analyze all samples of gasoline and kerosene and all fluids purporting to be substitutes therefor or motor fuel improvements or other like products of petroleum, under whatever name they may be designated, and used for illuminating, heating, cooking, power, or lubricating purposes, submitted by the Commissioner of Agriculture or any duly authorized inspector or inspectors.

### **History**

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Ga. L. 1927, p. 279, § 9; Code 1933, § 73-201; Ga. L. 1960, p. 1043, §§ 1, 2; Ga. L. 1972, p. 1015, § 505; Ga. L. 1979, p. 981, § 1.

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### **10-1-143. Employment of oil inspectors; expenses.**

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The Commissioner of Agriculture is authorized to employ, in accordance with Chapter 20 of Title 45, oil inspectors as he deems necessary to enforce this part. Oil inspectors so appointed shall be allowed such expenses as shall be approved by the Commissioner of Agriculture.

### **History**

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Ga. L. 1927, p. 279, § 10; Code 1933, § 73-202; Ga. L. 1937, p. 475, § 1; Ga. L. 1960, p. 1043, § 3; Ga. L. 1972, p. 1015, § 505.

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## O.C.G.A. § 10-1-144

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### **10-1-144. Additional expenses; Commissioner of Agriculture to be chief oil inspector.**

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In addition to the expenses of inspectors as provided for in Code Section 10-1-143, there shall be allowed such further sums for the purchase of equipment, supplies, and clerical help and to pay any other expenses incident to and necessary for the enforcement of this part as may hereafter be appropriated. The Commissioner of Agriculture is constituted chief oil inspector for the purpose of the enforcement of this part.

### **History**

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Ga. L. 1927, p. 279, § 19; Ga. L. 1931, p. 7, § 78; Code 1933, § 73-203; Ga. L. 1960, p. 1043, §§ 1, 4; Ga. L. 1972, p. 1015, § 505.

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### **10-1-145. Payment of compensation and expenses.**

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The compensation of the state oil chemist and state oil inspectors and the expenses of enforcing this part shall be paid in the same manner as compensation and expenses of other employees of the Department of Agriculture are paid.

### **History**

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Ga. L. 1927, p. 279, § 20; Code 1933, § 73-204; Ga. L. 1960, p. 1043, § 5.

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### **10-1-146. Bonds of state oil chemist and inspectors.**

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The Commissioner of Agriculture is authorized to have the state oil chemist and state oil inspectors bonded for the faithful performance of their respective duties at the expense of the Department of Agriculture if and to the extent he deems it necessary for the proper protection of the state and the public.

### **History**

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Ga. L. 1927, p. 279, § 23; Code 1933, § 73-205; Ga. L. 1960, p. 1043, § 6.

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### **10-1-147. Filling vacancies in offices of state oil chemist and inspectors.**

The Commissioner of Agriculture is authorized to fill any vacancies which may occur in the offices of state oil chemist and oil inspector on account of death, resignation, or other cause.

### **History**

Ga. L. 1927, p. 279, § 25; Code 1933, § 73-207; Ga. L. 1960, p. 1043, § 1.

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### **10-1-148. Right to inspect premises; search warrants; refusal of admission as evidence of violation.**

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In the performance of their duties, the Commissioner of Agriculture or any of his duly authorized agents shall have free access at all reasonable hours to any store, warehouse, factory, storage house, or railway depot where petroleum products are kept or otherwise stored, for the purpose of examination or inspection and drawing samples. If such access shall be refused by the owner of such premises or his agent or other persons occupying and using the same, the Commissioner of Agriculture or his duly authorized inspectors or agents may apply for a search warrant, which shall be obtained in the same manner as provided for obtaining search warrants in other cases. Their refusal to admit an inspector to any of the above-mentioned premises during reasonable hours shall be construed as prima-facie evidence of a violation of this part.

### **History**

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Ga. L. 1927, p. 279, § 16; Code 1933, § 73-208; Ga. L. 1960, p. 1043, §§ 1, 7.

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### **10-1-149. Gasoline and kerosene subject to inspection and analysis; manufacturers and wholesalers to file statements.**

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For the purpose of this part, all gasoline and kerosene sold or offered or exposed for sale shall be subject to inspection and analysis as provided in this part. All manufacturers, refiners, wholesalers, and jobbers, before selling or offering for sale any gasoline or kerosene or like products, under whatever name designated, for power, lubricating, illuminating, heating, or cooking purposes, shall file with the Commissioner of Agriculture a declaration or statement that they desire to sell such products in this state and shall furnish the name, brand, or a trademark of the product which they desire to sell, together with the name and address of the manufacturer thereof, and that all such products are in conformity with the specifications established pursuant to this part by the state oil chemist and approved by the Commissioner of Agriculture.

### **History**

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Ga. L. 1927, p. 279, § 2; Code 1933, § 73-210; Ga. L. 1960, p. 1043, §§ 1, 8; Ga. L. 1979, p. 981, § 3.

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### **10-1-150. Approval of substitutes or improvers of fuels or other motor fuels.**

All materials, fluids, or substances offered or exposed for sale, purporting to be substitutes for or improvers of fuels or other motor fuels to be used for power, cooking, or heating purposes, shall, before being sold or exposed or offered for sale, be submitted to the Commissioner of Agriculture for examination and inspection and shall receive the approval of the state oil chemist and the Commissioner of Agriculture and shall be sold or offered for sale only when properly labeled with a label, the form and contents of which shall have been approved by the state oil chemist and the Commissioner of Agriculture.

### **History**

Ga. L. 1927, p. 279, § 3; Code 1933, § 73-211; Ga. L. 1960, p. 1043, § 1.

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### **10-1-151. Sale of substandard gasoline and kerosene illegal; confiscation.**

It shall be illegal to sell or offer for sale any gasoline or kerosene which is described and designated in this part and which is used or intended to be used for power, lubricating, illuminating, cooking, or heating purposes, when sold under whatever name, and which falls below the standard provided in this part. Any such gasoline or kerosene shall be subject to confiscation and destruction by order of the Commissioner of Agriculture.

### **History**

Ga. L. 1927, p. 279, § 4; Code 1933, § 73-212; Ga. L. 1960, p. 1043, § 1; Ga. L. 1979, p. 981, § 4.

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## O.C.G.A. § 10-1-151.1

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### **10-1-151.1. Production and sale of biodiesel fuel.**

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It shall be unlawful for any person to produce, offer for sale, or sell any biodiesel fuel to be used in blending such biodiesel fuel with petroleum diesel fuel to create a blended fuel for subsequent sale for use in diesel engines unless the biodiesel fuel meets the specifications of American Society for Testing and Materials Standard D 6751.

### **History**

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Code 1981, § 10-1-151.1, enacted by Ga. L. 2006, p. 547, § 1/SB 636.

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### **10-1-152. Labeling gasoline and kerosene containers; cleaning kerosene containers of gasoline.**

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Every person, firm, or corporation delivering at wholesale or retail any gasoline in this state shall deliver the same to the purchaser only in tanks, barrels, casks, cans, or other containers having the word “gasoline” plainly stenciled or labeled thereon in vermilion red, in English. Such dealers shall not deliver kerosene oil in any barrel, cask, can, or other container which shall have been so stenciled or labeled or that has ever contained gasoline unless such barrel, cask, can, or other container shall have been thoroughly cleaned and all traces of gasoline removed. Every purchaser of gasoline for use or sale shall procure and keep the same only in tanks, barrels, casks, cans, or other containers stenciled or labeled as provided in this Code section. Every person delivering at wholesale or retail any kerosene in this state shall deliver same to the purchaser only in tanks, barrels, casks, cans, or other containers having the word “kerosene” in English, plainly stenciled or labeled thereon in vermilion red; and every person purchasing same for use or sale shall procure and keep the same only in tanks, barrels, casks, cans, or other containers stenciled or labeled as provided in this Code section. Nothing in this Code section shall prohibit the delivery of gasoline by hose or pipe from a tank directly into the tank of any automobile or other motor. In cases where gasoline or kerosene is sold in bottles, cans, or other containers of not more than one gallon, for cleaning and other similar purposes, such bottles, cans, or other containers shall bear a label with the words “unsafe when exposed to heat or fire.”

### **History**

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Ga. L. 1927, p. 279, § 5; Code 1933, § 73-213.

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### **10-1-153. Notice and sample of petroleum products shipped into state.**

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When gasoline or kerosene or other petroleum products used for heating, cooking, illuminating, power, or lubricating purposes are shipped into this state in any manner whatsoever, the manufacturer, refiner, or jobber shall promptly give notice to the Commissioner of Agriculture of the date of shipment and shall furnish a sample of such size as designated by the Commissioner of Agriculture, but not in excess of 16 ounces, of the gasoline or kerosene and other petroleum products used for heating, cooking, illuminating, power, or lubricating purposes shipped and labeled, giving the tank car number, truck number, or other container number, with the name and address of the person, company, firm, or corporation to whom it is sent and the number of gallons contained in the shipment made. In each instance where gasoline or kerosene and other petroleum products used for heating, cooking, illuminating, power, or lubricating purposes are shipped in tank cars, the record of the capacity of each tank car furnished by the railroad company shall be accepted.

### **History**

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Ga. L. 1927, p. 279, § 6; Code 1933, § 73-214; Ga. L. 1960, p. 1043, §§ 1, 9; Ga. L. 1979, p. 981, § 5.

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### **10-1-154. How purchaser may obtain analysis of gasoline or illuminating or heating oils.**

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Any person purchasing any gasoline or illuminating or heating oils from any manufacturer, refiner, jobber, or vendor for his own use may submit fair samples of said gasoline or illuminating or heating oils to the Commissioner of Agriculture to be tested or analyzed by the state oil chemist. In order to protect the manufacturer or vendor from the submission of spurious samples, the person selecting the same shall do so in the presence of two or more disinterested persons, which samples shall be not less than one pint in quantity and shall be bottled, corked, and sealed in the presence of said witnesses and the sample shall be placed in the hands of a disinterested person, who shall forward the same at the expense of the purchaser to the Commissioner of Agriculture. Upon the receipt by the Commissioner of any such sample he shall have the state oil chemist promptly test and analyze the sample. The Commissioner shall return to such purchaser or purchasers a certificate of analysis, which, when verified by the affidavit of the state oil chemist, shall be competent evidence in any court of law or equity.

### **History**

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Ga. L. 1927, p. 279, § 7; Code 1933, § 73-215; Ga. L. 1960, p. 1043, § 1.

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### **10-1-155. Rules and regulations; specifications for petroleum products; penalty for violations.**

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(a) The Commissioner of Agriculture shall have authority to prescribe such rules and regulations, consistent with the terms, intent, and purposes of this part, as he finds necessary for the proper administration and enforcement thereof. He shall establish by regulation specifications for the various petroleum products used for heating, cooking, illuminating, power, or lubricating purposes in this state so as to provide quality control and suitability for the intended use of such products and the effective enforcement of the laws pertaining to the sale, distribution, or use of such products and shall have authority to change such specifications, but only after giving a 60 days' notice and a public hearing in regard to such changes to refiners and distributors doing business in this state.

(b) Any manufacturer, refiner, wholesaler, jobber, or vendor who shall violate this Code section or any regulation issued pursuant thereto prescribing specifications for the various petroleum products regulated by this part shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1927, p. 279, § 8; Code 1933, §§ 73-216, 73-9904; Ga. L. 1943, p. 303, § 1; Ga. L. 1960, p. 1043, §§ 10, 16; Ga. L. 1972, p. 1015, § 504; Ga. L. 1979, p. 981, § 6.

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### **10-1-156. Enjoining marketing in violation of part, specifications, or rules and regulations.**

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Whenever the Commissioner of Agriculture shall find any person willfully marketing petroleum products in this state which are regulated by this part and which do not comply with the prescribed specifications therefor or otherwise willfully marketing petroleum products in violation of this part and rules and regulations promulgated pursuant to this part, the Commissioner shall be authorized to apply to the superior court having jurisdiction over the offender for an injunction against the continuance of any such violations. The appropriate superior court shall have jurisdiction, upon hearing and for cause shown, to grant such temporary or permanent injunction restraining further violations as the circumstances appear to require.

### **History**

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Ga. L. 1960, p. 1043, § 11; Ga. L. 1979, p. 981, § 6.

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### **10-1-157. Collecting and testing samples of petroleum products; rules and regulations.**

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The Commissioner of Agriculture shall, from time to time, collect or cause to be collected samples of all petroleum products subject to regulation under this part which are sold, offered, or exposed for sale in this state and cause such samples to be tested or analyzed by the state oil chemist. The Department of Agriculture shall have the power to implement rules and regulations necessary to carry out inspection of gasoline samples as provided for by this Code section.

### **History**

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Ga. L. 1927, p. 279, § 13; Code 1933, § 73-218; Ga. L. 1960, p. 1043, § 13; Ga. L. 2010, p. 9, § 1-23/HB 1055; Ga. L. 2011, p. 99, § 12/HB 24.

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### **10-1-158. Registration of gasoline dealers.**

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Every dealer in gasoline, before selling or exposing or offering for sale any gasoline, and annually thereafter, shall be required to register and shall make known to the Commissioner of Agriculture his desire to sell gasoline giving the name and manner and kind of pump or pumps he will use and the location of same, and shall keep the certificate or certificates of registration issued by the Commissioner of Agriculture posted in a prominent and accessible place in his place of business where such gasoline is sold. The form of such certificate shall be designated by the Commissioner of Agriculture.

### **History**

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Ga. L. 1927, p. 279, § 14; Code 1933, § 73-219; Ga. L. 1960, p. 1043, § 1.

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### **10-1-159. Inspection of self-measuring pumps; sealing accurate pumps; condemnation of inaccurate pumps; rules and regulations.**

- (a) It shall be the duty of the inspectors provided for in this part to familiarize themselves with the accuracy and adjusting devices on the various makes of self-measuring pumps in use; and they shall carefully inspect all of such pumps located in the territory assigned to them.
- (b) All such pumps found to be giving accurate measure within the tolerance established by regulations of the Commissioner of Agriculture shall have the adjusting device sealed with an official lead and wire seal applied by an inspector duly authorized by the Commissioner of Agriculture in such a manner that the adjustment cannot be altered without breaking the seal.
- (c) If any pump shall be found to be giving inaccurate measure in excess of the tolerance established by regulations of the Commissioner of Agriculture, the inspector shall then and there notify the operator of the pump, whether owner or lessee, to make the necessary adjustments, the inspector to lend his assistance with the standard measure provided for testing such pumps. After the adjustments have been made, the adjusting devices shall be sealed in the manner provided for those pumps found originally accurate. The inspector shall notify the operator, whether owner or lessee, of every pump that apparently has been altered for the purpose of giving short measure in excess of eight ounces on a measure of five gallons or that cannot be adjusted within a range of eight ounces, either over or under, on a measure of five gallons that it must immediately be adjusted, the inspector to lend his assistance with the standard measure for testing such pumps. Should the operator fail or refuse to then and there make such adjustments as shall be necessary to bring the measure within the allowed variation, the same shall be condemned and rendered inoperable immediately by the inspector examining the same; and such pump shall not again be operated without the written consent of the Commissioner of Agriculture. Inspectors shall be required to report to the Commissioner of Agriculture immediately the name and number of all pumps condemned and rendered inoperable.
- (d) When any pump shall be condemned under this part by any inspector, it shall be the duty of the inspector immediately to make affidavit before the judge of the probate court of the county in which the pump is located that the pump is being operated by the person who shall be named in the affidavit, contrary to law. Thereupon the judge of the probate court shall issue an order to the person named in the affidavit to show cause before him on the day named in the order, not more than ten days nor less than three days from the issuance of the order, why the pump should not be confiscated and dismantled. On the day named in the order, it shall be the duty of the judge of the probate court to hear the respective parties and to determine whether or not the pump has been operated contrary to the provisions of this part. If the judge of the probate court shall find that the pump has been so operated, he shall forthwith issue an order adjudging the pump to be forfeited and confiscated to the state and direct the sheriff of the county to dismantle the pump and take it into his possession, and, after ten days' notice by posting or publication, as the court may direct, to sell the pump to the highest bidder for cash. The proceeds of sale, or as much thereof as may be necessary, shall be used by the sheriff, first, to pay the costs, which shall be the same as in cases of attachment, and the sheriff shall thereupon pay over and deliver the residue, if any, to the person from whose possession the pump has been taken.

## O.C.G.A. § 10-1-159

**(e)** It shall be unlawful to install or operate any self-measuring pump which can be secretly manipulated in such manner as to give short measure. Such inaccurate self-measuring pump shall be condemned as provided in this Code section, and thereafter it shall be unlawful for any person to sell any kerosene or gasoline from such pump until such pump has been made or altered to comply with this part and has been inspected and approved for service by the inspector.

**(f)** It shall be unlawful for anyone to break a seal applied by an inspector to a pump without first securing consent of the Commissioner of Agriculture, which consent may be given through one of the duly authorized inspectors.

**(g)** The Department of Agriculture shall have the power to implement rules and regulations necessary to carry out inspections of self-measuring pumps provided for by this Code section.

## History

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Ga. L. 1927, p. 279, § 15; Code 1933, § 73-220; Ga. L. 1960, p. 1043, §§ 1, 14; Ga. L. 2010, p. 9, § 1-24/HB 1055.

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## O.C.G.A. § 10-1-160

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 1 Petroleum Products (§§ 10-1-140 — 10-1-169)***

### **10-1-160. Calibration of tank trucks, meters, containers, and other measures; condemnation of inaccurate measures.**

---

The Commissioner of Agriculture is authorized to prescribe regulations governing the calibration of tank trucks, meters, containers, and other measures used in dispensing petroleum products subject to regulation under this part; and, when any such measure is found giving inaccurate measure and such condition cannot be or is not adjusted to the requirements of the regulations, then such measures shall be seized by the Commissioner or his agents and subject to condemnation in a manner similar to that prescribed in subsections (c) and (d) of Code Section 10-1-159 or destroyed if the court shall find that the measure cannot be properly adjusted.

### **History**

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Ga. L. 1960, p. 1043, § 15; Ga. L. 1972, p. 1015, § 505.

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## O.C.G.A. § 10-1-161

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### **10-1-161. [Reserved] No fee for gasoline or kerosene inspection.**

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#### **History**

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Ga. L. 1927, p. 279, § 24; Code 1933, § 73-221; repealed by Ga. L. 2010, p. 9, § 1-25/HB 1055, effective May 12, 2010.

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## O.C.G.A. § 10-1-162

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 1 Petroleum Products (§§ 10-1-140 — 10-1-169)***

### **10-1-162. “Person” defined; substitution or misbranding of petroleum products; sale of used or reclaimed lubricants; injunctions; enforcement.**

- (a) As used in this Code section and in Code Section 10-1-163, the term “person” means natural persons; partnerships, firms, associations, joint-stock companies, syndicates, and corporations; any receiver, trustee, conservator, or other officer appointed by any state or federal court; counties, municipalities, or other political subdivisions of this state, singular or plural; and the State of Georgia. The use of the singular number shall include the plural number.
- (b) No person shall store, sell, expose, or offer for sale any liquid fuels, lubricating oils, greases, or other similar products:
- (1) In or from any container, receptacle, tank, pump, or other distributing device other than those products manufactured or distributed by the manufacturer or distributor indicated by the trademark, trade name, name, symbol, sign, or other distinguishing mark or device displayed upon the container, receptacle, tank, pump, or other distributing device in or from which such products are stored, sold, exposed, or offered for sale or distributed; or
  - (2) Under any trademark, trade name, name, symbol, sign, or other distinguishing mark or device other than those products manufactured or distributed by the manufacturer or distributor marketing such products under such trademark, trade name, name, symbol, sign, or other distinguishing mark or device; or
  - (3) In any manner whatsoever which may deceive or have the effect of deceiving the purchaser of such products as to the nature, price, quality, or quantity of the products so stored, sold, exposed, or offered for sale.
- (c) No person shall store, sell, expose, or offer for sale any previously used or previously used and reclaimed, recleaned, or reconditioned lubricating oils, lubricants, or mixtures of lubricants unless such person shall at all times have each and every container or item of equipment in or through which any of such products are sold, kept for sale, displayed, or dispensed plainly labeled “reprocessed or rerefined.” No person shall cause to be published, displayed, or circulated any advertising matter offering for sale any previously used or previously used and reclaimed, used, recleaned, or reconditioned lubricating oils, lubricants, or mixtures of lubricants unless he shall state in such advertising the fact that such products have been previously used. Nothing in this Code section shall apply to the sale of unfiltered crankcase drainings, and nothing in this Code section shall apply to the sale of crankcase drainings for use on livestock.
- (d) Any person dealing in previously used or previously used and reclaimed, recleaned, or reconditioned lubricating oils, lubricants, or mixtures of lubricants without having each and every container or item of equipment in or through which any of such products are sold, kept for sale, displayed, or dispensed plainly labeled as required in this Code section or advertising any of such products for sale without inserting in such advertising a statement as required in this Code section may upon proper hearing be enjoined from selling any of such products or offering, displaying, or advertising any of the same for sale. Action for such injunction may be brought in any court having jurisdiction to hear and decide equity cases in the county in

## O.C.G.A. § 10-1-162

which the defendant resides and may be brought either by the Attorney General of this state or by the district attorney in and for such county. The authority granted by this Code section shall be in addition to and not in lieu of authority to prosecute criminally any person for a violation of this Code section. The granting or enforcing of any injunction under this Code section is a preventive measure for the protection of the people of this state, not a punitive measure; and the fact that a person has been charged or convicted of a violation of this Code section shall not prevent the issuance of a writ of injunction to prevent further unlawful dealing in previously used or previously used and reclaimed, recleaned, or reconditioned lubricating oils, lubricants, or mixtures of lubricants, nor shall the fact that a writ of injunction has been granted under this Code section preclude the institution of criminal prosecution or punishment.

**(e)** No person shall disguise or camouflage his equipment by imitating the trademark, trade name, name, symbol, sign, or other distinguishing mark or device under which recognized brands of liquid fuels, lubricating oils, greases, or other similar products are generally marketed.

**(f)** No person shall mix, blend, or compound the liquid fuels, lubricating oils, greases, or similar products of a manufacturer or distributor with the products of any other manufacturer or distributor or adulterate the same or store, sell, expose, or offer for sale such mixed, blended, or compounded products under the trademark, trade name, name, symbol, sign, or other distinguishing mark or device of either of said manufacturer or distributor or as the adulterated products of such manufacturer or distributor.

**(g)** No person shall aid or assist any other person in violating any of the provisions of this Code section by depositing or delivering into any container, receptacle, tank, pump, or other distributing device any liquid fuels, lubricating oils, greases, or other similar products other than those intended to be stored therein as indicated by the name of the manufacturer or distributor or the trademark, trade name, name, symbol, sign, or other distinguishing mark or device of the product displayed on the container, receptacle, tank, pump, or other distributing device used in connection therewith or shall by any other means aid or assist another in the violation of any of the provisions of this Code section.

**(h)** Nothing in this Code section shall prevent the lawful owner thereof from applying his or its own trademark, trade name, name, symbol, sign, or other distinguishing mark or device to any product or material.

**(i)** The state oil chemist and all law enforcement officers in the State of Georgia are charged with the enforcement of this Code section.

## History

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Code 1933, §§ 73-222, 73-223, enacted by Ga. L. 1937, p. 477, § 1; Ga. L. 1952, p. 391, §§ 1-3; Ga. L. 1958, p. 618, § 1; Ga. L. 1959, p. 128, § 1; Ga. L. 1979, p. 981, § 7.

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## O.C.G.A. § 10-1-163

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 1 Petroleum Products (§§ 10-1-140 — 10-1-169)***

### **10-1-163. Penalty for violating Code Section 10-1-162; individual liability.**

---

(a) Any person who shall violate any of the provisions of Code Section 10-1-162 for preventing deception, substitution, and misbranding of liquid fuel, oil, grease, and similar products shall be guilty of a misdemeanor.

(b) If any partnership, firm, association, joint-stock company, syndicate, or corporation violates any of the provisions of Code Section 10-1-162, every director, officer, agent, employee, or member participating in, aiding, or authorizing the act or acts constituting the violation of Code Section 10-1-162 shall be guilty of a misdemeanor.

### **History**

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Code 1933, § 73-223, enacted by Ga. L. 1937, p. 477, §§ 1, 2; Ga. L. 1979, p. 981, § 7.

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## O.C.G.A. § 10-1-164

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 1 Petroleum Products (§§ 10-1-140 — 10-1-169)***

### **10-1-164. Requirements for signs advertising retail motor fuel; advertising free gifts or services; enforcement; penalty.**

---

(a) Any sign or placard or other means used to advertise the price of motor fuel for sale at retail for use in motor vehicles may contain a separate listing of the price and a separate listing of each tax thereon, but must contain a total of such price and taxes which shall be at least as large as the listing of the price or any tax thereon. Numbers used to advertise the total price of such motor fuel shall be of uniform size; and, where fractions are used, the numerator and denominator thereof combined shall be of the same size as any whole numbers used. It shall not be necessary that a denominator be used to indicate fractions; but, if one is not used, the numerator must be at least half the size of the whole number used. If the price of motor fuel is advertised on any sign, billboard, placard, or other advertising medium, it shall be unlawful to place a higher price on any pump dispensing such motor fuel or to charge a higher price for such motor fuel. Any person dispensing motor fuel shall not be precluded from giving a discount from the posted or advertised price if the purchaser of the motor fuel buys additional merchandise.

(b) It shall be unlawful for any person dispensing motor fuel to advertise upon the purchase of motor fuel either free:

(1) Gifts or other products unless such person has sufficient number of gifts or products on hand to supply the reasonably expectable demand or the advertisement discloses a limitation of quantity; or

(2) Car washes or other services unless such person is prepared, in the absence of causes beyond the reasonable control of the offerer, to perform such car washes or the services advertised at the time of the purchase at such person's place of business or at a place of business affiliated by trademark or agreement with such person. If the free car washes or other services advertised are to be performed at a place of business affiliated by trademark or agreement but in a separate location, such fact shall be so stated on the sign, billboard, placard, or other advertising medium used.

(c) Nothing in this Code section shall preclude posting on any pumps dispensing motor fuel a separate statement of taxes included in the total purchase price for the purpose of complying with Chapter 8 of Title 48.

(d) The state oil chemist and any and all law enforcement officers in the State of Georgia are charged with enforcement of this Code section.

(e) Any person, firm, association, or corporation violating this Code section shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1959, p. 135, §§ 1-3; Ga. L. 1960, p. 826, § 1; Ga. L. 1973, p. 790, § 2.

O.C.G.A. § 10-1-164

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## O.C.G.A. § 10-1-164.1

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### **10-1-164.1. Self-service gasoline price for drivers holding special disability permit.**

---

(a) Any owner or operator of a gasoline station which sells gasoline at one price when an employee of the station dispenses the gasoline into a motor vehicle and at a lower price when the customer dispenses the gasoline on a self-service basis shall comply with this Code section. Any such owner or operator shall conduct the operations of the station so that the holder of a special disability permit provided for in subsection (e) of Code Section 40-2-74.1 will, upon request, have gasoline dispensed by an employee of the station at the self-service pump and will be allowed to purchase such gasoline at the price otherwise charged for gasoline purchased on a self-service basis if:

- (1) The holder of the permit is driving the motor vehicle into which the gasoline is to be dispensed; and
- (2) The holder of the permit is not accompanied by another person 16 years of age or older who is not mobility impaired or blind. However, in such cases, the employee shall not be required to provide any other service.

(b) Any owner or operator who violates subsection (a) of this Code section shall be guilty of a misdemeanor.

### **History**

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Code 1981, § 10-1-164.1, enacted by Ga. L. 1987, p. 1464, § 1; Ga. L. 2020, p. 493, § 10/SB 429.

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## O.C.G.A. § 10-1-165

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### **10-1-165. Civil penalty.**

---

Any person violating any provision of:

- (1) This part relating to the inspection and sale of gasoline, kerosene, and other petroleum products; or
- (2) Code Section 10-1-164 providing for the regulation of signs advertising the price of motor fuel which are displayed by retailers of motor fuel; or
- (3) Any rule, regulation, or standard promulgated or adopted by the Commissioner of Agriculture or the Department of Agriculture under the provisions of any of the above

shall be liable to a civil penalty not to exceed \$1,000.00 for such violation. The Commissioner, after a hearing, shall determine whether any person has violated this Code section and upon a proper finding may issue his order imposing a civil penalty as provided in this Code section. All hearings and proceedings under this Code section shall be held and taken under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

### **History**

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Code 1933, § 73-223.1, enacted by Ga. L. 1973, p. 790, § 1.

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### **10-1-166. Penalty for chemist or inspector having interest in sale or manufacture of gasoline.**

---

Any chemist or inspector who, while in office, shall be interested directly or indirectly in the manufacture or vending of any gasoline shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1927, p. 279, § 11; Code 1933, § 73-9903.

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## O.C.G.A. § 10-1-167

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### **10-1-167. Penalty for operating condemned self-measuring gasoline pumps.**

Any person, company, firm, or corporation who shall operate any pump, without the written consent of the Commissioner of Agriculture, which has been condemned by a duly authorized inspector as provided for in this part because of giving short measure in excess of the tolerance established by regulation of the Commissioner shall be guilty of a misdemeanor.

### **History**

---

Ga. L. 1927, p. 279, § 15; Code 1933, § 73-9905; Ga. L. 1960, p. 1043, § 17.

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### **10-1-168. Penalty for operating short-measure gasoline pump.**

---

Any person, company, firm, or corporation who shall install or operate a self-measuring pump which has a device or other mechanical means used for the purpose of giving short measure shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1927, p. 279, § 15; Code 1933, § 73-9906.

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## O.C.G.A. § 10-1-169

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### **10-1-169. Penalty for violation of this part or regulations.**

---

Any person or association of persons, firm, or corporation who shall violate any of the provisions of this part relating to inspection, labeling, sale, etc., of gasoline, kerosene, and other petroleum products or any rule or regulation promulgated by the Commissioner of Agriculture for the enforcement of this part shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1927, p. 279, § 17; Code 1933, § 73-9902; Ga. L. 1960, p. 1043, § 1.

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## **O.C.G.A. Title 10, Ch. 1, Art. 8, Pt. 2**

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### **PART 2 Brake Fluid**

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## 10-1-180. Definitions.

---

As used in this part, the term:

- (1) “Brake fluid” means the liquid medium through which force is transmitted in the hydraulic brake system of any motor vehicle operated in this state.
- (2) “Chemist” means the state oil chemist.
- (3) “Commissioner” means the Commissioner of Agriculture.

## History

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Ga. L. 1956, p. 237, § 1; Ga. L. 1972, p. 1015, § 505.

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### **10-1-181. When brake fluid deemed adulterated.**

---

Brake fluid shall be deemed to be adulterated unless it meets the minimum standard for brake fluid as provided in this part. Brake fluid shall also be deemed to be adulterated if it contains any substance which will render it injurious to the hydraulic brake system of any motor vehicle or that will impair the normal operation of the hydraulic brake system.

### **History**

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Ga. L. 1956, p. 237, § 2.

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# O.C.G.A. § 10-1-182

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## **10-1-182. When brake fluid deemed misbranded.**

---

A brake fluid shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular;
- (2) If in package form it does not bear a label containing the name and place of business of the manufacturer, packer, seller, or distributor; an accurate statement of quantity of the contents in terms of weight or measure; and the words “brake fluid” and “heavy duty”; and if such information is not plainly and clearly stated on the outside of the package or container.

## **History**

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Ga. L. 1956, p. 237, § 3.

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### **10-1-183. Sale of misbranded or adulterated brake fluid prohibited.**

---

No person shall sell, have for sale, offer for sale, give, donate, distribute, or add to the hydraulic brake system of a motor vehicle in this state any brake fluid which is misbranded or adulterated.

### **History**

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Ga. L. 1956, p. 237, § 4.

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### **10-1-184. Establishing minimum brake fluid standard and specifications.**

The Commissioner shall establish by rule or regulation the minimum standard and specifications for brake fluid. The Commissioner shall not adopt a minimum standard or specification that is below the minimum standard and specifications established by the Society of Automotive Engineers for heavy-duty type brake fluids No. 70R1.

### **History**

Ga. L. 1956, p. 237, § 5.

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## O.C.G.A. § 10-1-185

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 2 Brake Fluid (§§ 10-1-180 — 10-1-189)***

### **10-1-185. Inspection of brake fluid samples; annual license to sell.**

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Before any brake fluid shall be sold, exposed for sale, or stored, packed, or held with intent to sell within this state, a sample thereof must be inspected or approved by the state oil chemist. Upon application of the manufacturer, packer, seller, or distributor and the payment of a license or inspection fee of \$25.00 for each brand or type of brake fluid submitted, the state oil chemist shall subject to inspection or analysis the brake fluid so submitted. If the brake fluid is not adulterated or misbranded and meets the standards established and promulgated by the Commissioner and is not such a type or kind that is in violation of this part, the Commissioner may issue the applicant a written license or permit authorizing the sale of such brake fluid in this state for the calendar year in which the license or inspection fee is paid, which license or permit shall be subject to renewal annually upon payment of a \$25.00 renewal fee. If, in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," the Commissioner shall find that any brake fluid has been materially altered or adulterated or a change has been made in the name, brand, or trademark under which the brake fluid is sold or that it violates this part, he shall notify the applicant; and the license or permit shall be canceled forthwith. No license or permit for the sale of brake fluid in this state shall be issued until application has been made as provided by this part and such samples of the brake fluid as may be necessary for the state oil chemist to inspect it have been submitted and until the state oil chemist notifies the Commissioner that said brake fluid meets the specifications adopted by the Commissioner.

### **History**

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Ga. L. 1956, p. 237, § 6.

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## O.C.G.A. § 10-1-186

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 2 Brake Fluid (§§ 10-1-180 — 10-1-189)***

### **10-1-186. Enforcement; right of inspection; “stop-sale” orders; condemnation of adulterated or misbranded brake fluid.**

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(a) The Commissioner shall administer and enforce this part by inspections, chemical analyses, or by any other appropriate methods. All quantities or samples of brake fluid submitted for inspection or analysis shall be taken from stocks in this state or intended for sale in this state; or the Commissioner, through his agents, may call upon the manufacturer or distributor applying for an inspection or analysis of brake fluid to supply such sample thereof for inspection or analysis. The Commissioner, through his agents or inspectors, shall have free access during business hours to all places of business, buildings, vehicles, cars, and vessels used in the manufacture, transportation, sale, or storage of any brake fluid; and the Commissioner, acting through his agents, may open any box, carton, parcel, package, or container holding, containing, or supposed to contain any brake fluid and may take therefrom samples for analysis.

(b) If it appears that any of the provisions of this part have been violated, the Commissioner, acting through his authorized agents, inspectors, or representatives, is authorized to issue a “stop-sale” order which shall prohibit further sale or gift of any brake fluid being sold, exposed for sale, or held with intent to sell within this state in violation of this part until this part has been complied with.

(c) Any brake fluid not in compliance with this part shall be subject to seizure upon complaint of the Commissioner or any of his agents, inspectors, or representatives to a superior court in the county in which said brake fluid is located. In the event the court finds that any brake fluid is adulterated or misbranded, it may order the condemnation of said brake fluid; and such brake fluid shall be disposed of in any manner consistent with the rules and regulations of the Commissioner and the laws of this state, provided that in no instance shall the disposition of said brake fluid be ordered by the court without first giving the claimant or owner of same an opportunity to apply to the court for the release of said brake fluid or for permission to process or label said brake fluid so as to bring it into compliance with this part.

(d) In case any “stop-sale” order shall be issued under this part, the agents, inspectors, or representatives of the Commissioner shall release the brake fluid so withdrawn from sale when the requirements of this part have been complied with and upon payment of all costs and expenses incurred in connection with the withdrawal.

### **History**

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Ga. L. 1956, p. 237, § 7; Ga. L. 1983, p. 884, § 3-9.

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## O.C.G.A. § 10-1-187

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 2 Brake Fluid (§§ 10-1-180 — 10-1-189)***

### **10-1-187. Rules and regulations; powers of Commissioner's agents; list of inspected and licensed brands; advertising of licensing.**

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The Commissioner shall have authority to establish and promulgate such rules and regulations as are necessary promptly and efficiently to enforce this part. All authority vested in the Commissioner by virtue of this part may, with like force and effect, be executed by such employees, agents, inspectors, and representatives of the Commissioner as he may, from time to time, designate for such purpose. The Commissioner may publish in print or electronically or furnish, upon request, a list of the brands and classes or types of brake fluid inspected by the chemist which have been found to be in accord with this part and for which a license or permit for sale has been issued; and it shall be lawful for any manufacturer, packer, seller, or distributor of brake fluid to show, by advertising, in any manner, that his or its brand of brake fluid has been inspected, analyzed, and licensed for sale by the Commissioner, acting through the state oil chemist. It shall be unlawful for any manufacturer, packer, seller, or distributor of brake fluid to advertise, in any manner, that such brake fluid so advertised for sale has been approved by the Commissioner.

### **History**

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Ga. L. 1956, p. 237, § 8; Ga. L. 2010, p. 838, § 10/SB 388.

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## O.C.G.A. § 10-1-188

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 2 Brake Fluid (§§ 10-1-180 — 10-1-189)***

### **10-1-188. [Reserved] Certified analyses as evidence.**

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#### **History**

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Repealed by Ga. L. 2011, p. 99, § 13/HB 24, effective January 1, 2013.

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## O.C.G.A. § 10-1-189

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### **10-1-189. Penalty for violations; instituting prosecutions.**

---

Any person, firm, association, or corporation violating or failing to comply with this part or any rule, regulation, standard, or specification issued pursuant to this part shall be guilty of a misdemeanor; and each day that any violation of this part shall exist shall be deemed to be a separate offense. Whenever the Commissioner or his agents or representatives shall discover that any brake fluid is being sold or has been sold in violation of this part, the Commissioner or his agents or representatives may furnish the facts to the prosecuting attorney of the court having jurisdiction in the county in which such violation occurred; and it shall be the duty of such prosecuting attorney promptly to institute appropriate legal proceedings.

### **History**

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Ga. L. 1956, p. 237, § 10.

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## **O.C.G.A. Title 10, Ch. 1, Art. 8, Pt. 3**

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 3 Antifreeze (§§ 10-1-200 — 10-1-211)***

### **PART 3 Antifreeze**

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# O.C.G.A. § 10-1-200

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## 10-1-200. Definitions.

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As used in this part, the term:

- (1) “Antifreeze” means all substances and preparations intended for use as the cooling medium or to be added to the cooling liquid in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point.
- (2) “Person” means individuals, partnerships, corporations, companies, and associations.

## History

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Ga. L. 1975, p. 706, § 1.

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# O.C.G.A. § 10-1-201

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## **10-1-201. When antifreeze deemed adulterated.**

---

An antifreeze shall be deemed to be adulterated:

- (1) If it consists in whole or in part of any substance which will render it injurious to the cooling system of an internal combustion engine or will make the operation of the engine dangerous to the user;
- (2) If its strength, quality, or purity falls below the standard of strength, quality, or purity under which it is sold; or
- (3) If it consists of or is compounded with calcium chloride, magnesium chloride, petroleum distillates, or other chemicals or substances in quantities harmful to the cooling system of internal combustion engines.

## **History**

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Ga. L. 1975, p. 706, § 2.

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# O.C.G.A. § 10-1-202

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 3 Antifreeze (§§ 10-1-200 — 10-1-211)***

## **10-1-202. When antifreeze deemed misbranded.**

---

An antifreeze shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular; or
- (2) If in package form it does not bear a label containing the name and place of business of the manufacturer, packer, or distributor and an accurate statement of quantity of the contents in terms of weight or measure and they are not plainly and correctly stated on the outside of the package or container.

## **History**

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Ga. L. 1975, p. 706, § 3.

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## O.C.G.A. § 10-1-202.1

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### **10-1-202.1. Addition of denatonium benzoate to certain antifreeze; applicability; limitation on civil liability and criminal responsibility.**

---

- (a) Antifreeze sold in this state that is manufactured after July 1, 2012, containing more than 10 percent ethylene glycol shall include denatonium benzoate at a minimum of 30 parts per million and a maximum of 50 parts per million as an aversive agent to render the antifreeze unpalatable.
- (b) The requirements of subsection (a) of this Code section shall apply only to manufacturers, packagers, distributors, recyclers, or sellers of antifreeze and shall apply to recyclers notwithstanding the provisions of Code Section 10-1-208.1.
- (c) The requirements of subsection (a) of this Code section shall not apply to the sale of a motor vehicle, as defined in Code Section 40-1-1, that contains antifreeze or to wholesale containers containing 55 gallons or more of antifreeze.
- (d) A manufacturer, packager, distributor, recycler, or seller of antifreeze that is required to contain denatonium benzoate pursuant to this Code section shall not be liable to any person for personal injury, death, property damage, damage to the environment including without limitation natural resources, or economic loss that results solely from the inclusion of denatonium benzoate in the antifreeze; provided, however, that such limitation on liability shall only be applicable if denatonium benzoate is included in antifreeze in the concentrations mandated by subsection (a) of this Code section. Such limitation on liability shall not apply to a particular liability to the extent that the cause of that liability is unrelated to the inclusion of denatonium benzoate in antifreeze.
- (e) In any criminal prosecution under this part or civil action for damages relating to the requirements of this part, a distributor or seller of antifreeze who is not the manufacturer, packager, or recycler of such antifreeze and who sells or distributes antifreeze that is labeled as containing denatonium benzoate shall not be criminally responsible for, and shall be immune from civil liability for, failure to include denatonium benzoate in such labeled package, bill of lading, receipt, or container of antifreeze; provided, however, that if such distributor or seller of antifreeze has actual knowledge that the labeled product does not contain denatonium benzoate in the concentrations mandated by subsection (a) of this Code section, such distributor or seller shall not receive the immunity provided by this subsection.

### **History**

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Code 1981, § 10-1-202.1, enacted by Ga. L. 2011, p. 331, § 2/HB 40; Ga. L. 2012, p. 775, § 10/HB 942.

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## O.C.G.A. § 10-1-203

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### **10-1-203. Inspection of antifreeze samples; annual license to sell.**

---

Before any antifreeze shall be sold, exposed for sale, or stored, packed, or held with intent to sell within this state, a current certified test report thereof prepared by an independent laboratory recognized by the Department of Agriculture to do such testing must be submitted and evaluated under the supervision of the state oil chemist in the Department of Agriculture. Upon application of the manufacturer or packer or distributor, submission of container label, and the payment of a license fee of \$50.00 for each brand or type of antifreeze submitted, the state oil chemist shall evaluate the test report so submitted. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1. If the antifreeze is not adulterated or misbranded, if it meets the standards established and promulgated by the Commissioner of Agriculture, and if the antifreeze is not a type or kind that is in violation of this part, the Commissioner shall issue the applicant a written license or permit authorizing the wholesale and retail sale by the applicant and by others of such antifreeze in this state for the fiscal year in which the license is issued, which license or permit shall be subject to renewal annually. If the Commissioner shall find at a later date that the antifreeze product or substance to be sold, exposed for sale, or held with intent to sell has been materially altered or adulterated or that a change has been made in the name, brand, or trademark under which the antifreeze is sold or that it violates this part, the Commissioner is authorized to revoke or suspend the license or permit issued under this part of the licensee found in violation of this part after notice and hearing before the Commissioner. No license or permit for the sale of antifreeze in this state shall be issued until the application, fee, and label submission have been made as provided by this part, the certified test report has been evaluated by the state oil chemist, and the state oil chemist notifies the Commissioner of Agriculture that said antifreeze meets the requirements of this part.

### **History**

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Ga. L. 1975, p. 706, § 4; Ga. L. 1997, p. 416, § 1; Ga. L. 2000, p. 136, § 10; Ga. L. 2010, p. 9, § 1-26/HB 1055.

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## O.C.G.A. § 10-1-204

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### **10-1-204. Enforcement; right of inspection; “stop-sale” orders.**

---

It shall be the duty of the Commissioner of Agriculture to administer and enforce this part by inspections, chemical analysis, or any other appropriate methods and to utilize any employee of the Department of Agriculture in the performance of his duties under this part. All quantities or samples of antifreeze submitted for inspection or analysis shall be taken from stocks in this state or intended for sale in this state, or the Commissioner may require the manufacturer or distributor applying for an inspection of antifreeze to supply such sample thereof for analysis. The Commissioner and his inspectors shall have free access during business hours to all places of business, buildings, vehicles, cars, and vessels used in the manufacture, transportation, sale, or storage of any antifreeze and may open any box, carton, parcel, package, or container holding or containing or supposed to contain any antifreeze and may take therefrom samples for analysis. If it appears that any provisions of this part have been violated, the Commissioner and his inspectors or representatives are authorized to issue a “stop-sale” order which shall prohibit further sale of any antifreeze being sold, exposed for sale, or held with intent to sell within this state in violation of this part until this part has been complied with or said violation has otherwise been legally disposed of. In case any “stop-sale” order shall be issued under this part, the Commissioner shall release the antifreeze so withdrawn from sale when this part has been complied with and upon payment of all costs and expenses incurred in connection with the withdrawal.

### **History**

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Ga. L. 1975, p. 706, § 5.

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### **10-1-205. Seizure and condemnation of noncomplying antifreeze.**

---

Any antifreeze not in compliance with this part shall be subject to seizure upon complaint of the Commissioner of Agriculture or his inspectors or representatives to the superior court in the county in which said antifreeze is located. In the event the superior court finds said antifreeze to be in violation of this part, it may order the condemnation of said antifreeze; and the same shall be disposed of in any manner consistent with the rules and regulations of the Department of Agriculture and the laws of this state, provided that in no instance shall the disposition of the antifreeze be ordered by the court without first affording the claimant or owner of the antifreeze an opportunity to apply to the court for the release of the antifreeze or for permission to process or relabel the antifreeze so as to bring it into compliance with this part.

### **History**

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Ga. L. 1975, p. 706, § 6.

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## O.C.G.A. § 10-1-206

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### **10-1-206. List of inspected and licensed brands; advertising references to licensing.**

---

The Commissioner of Agriculture may publish in print or electronically or furnish upon request a list of the brands and classes or types of antifreeze inspected by the state oil chemist during the fiscal year which have been found to be in compliance with this part and for which a license or permit for sale has been issued. It shall be lawful for any manufacturer, packer, or distributor of antifreeze to show, by advertising, in any manner, that its brand of antifreeze has been inspected, analyzed, or licensed for sale by the Commissioner of Agriculture acting through the state oil chemist. It shall be unlawful for any manufacturer, packer, or distributor of antifreeze to advertise in any manner that such antifreeze so advertised for sale has been “approved” by the Commissioner of Agriculture.

### **History**

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Ga. L. 1975, p. 706, § 7; Ga. L. 2010, p. 838, § 10/SB 388.

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## O.C.G.A. § 10-1-207

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### **10-1-207. Requiring statement of formula or contents; confidentiality of information furnished.**

---

When any manufacturer, packer, or distributor applies to the Commissioner of Agriculture for a license or permit to sell antifreeze in this state, the Commissioner may require the manufacturer, packer, or distributor to furnish to the state oil chemist a statement of the formula or contents of the antifreeze, which statements shall conform to rules and regulations established by the Commissioner, provided that the statement of the formula or contents need not include the inhibitor ingredients if such inhibitor ingredients total less than 5 percent by weight of the antifreeze and if in lieu thereof the manufacturer, packer, or distributor furnishes to the state oil chemist satisfactory evidence, other than by disclosure of the inhibitor ingredients, that the antifreeze is not adulterated as defined in Code Section 10-1-201. All statements of contents, formula, or trade secrets furnished under this Code section shall be privileged and confidential and shall not be subject to subpoena nor shall the same be exhibited or disclosed before any administrative or judicial tribunal by virtue of any order or subpoena of such tribunal unless with the consent of the person, firm, association, or corporation owning or furnishing to the state oil chemist such statement of contents.

### **History**

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Ga. L. 1975, p. 706, § 8.

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### **10-1-208. [Reserved] Certified analyses as evidence.**

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#### **History**

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Repealed by Ga. L. 2011, p. 99, § 14/HB 24, effective January 1, 2013.

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## O.C.G.A. § 10-1-208.1

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### **10-1-208.1. Recycled, reclaimed, or reprocessed antifreeze; exemption; regulations; violations.**

---

This part shall not apply to recycled, reclaimed, or reprocessed antifreeze processed in Georgia which meets standards of suitability for automobile or other vehicle engine cooling systems, which has conspicuous labeling or notice of its nature as “recycled,” and which is dispensed in an approved manner in bulk or by replenishing during servicing. The department shall establish by regulation such standards, testing requirements, labeling and notice requirements, and manner of dispensing. Each sale or other dispersal of a product which fails to meet such standards, which does not have the proper labeling or on which adequate notice is not given, or which is dispensed in an unapproved manner shall constitute a separate violation of this Code section.

### **History**

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Code 1981, § 10-1-208.1, enacted by Ga. L. 1996, p. 1020, § 1.

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### **10-1-209. Promulgation of rules and regulations.**

---

The Commissioner of Agriculture shall be authorized to promulgate rules and regulations to implement this part and to accomplish its purpose.

### **History**

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Ga. L. 1975, p. 706, § 10.

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## O.C.G.A. § 10-1-210

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### **10-1-210. Enjoining violations.**

---

In addition to the remedies provided in this part and notwithstanding the existence of any other remedy at law and notwithstanding the pendency of any criminal prosecution, the Commissioner of Agriculture is authorized to apply to the superior court in the appropriate county; and such court shall have jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent injunction or ex parte restraining order enjoining or restraining any person from violating or continuing to violate any of this part or for the failure or refusal to comply with this part or any rule or regulation promulgated under this part.

### **History**

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Ga. L. 1975, p. 706, § 11.

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## O.C.G.A. § 10-1-211

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 8 Sale of Petroleum Products, Brake Fluid, and Antifreeze (Pts. 1 — 3) > PART 3 Antifreeze (§§ 10-1-200 — 10-1-211)***

### **10-1-211. Penalty for violation of part or rules and regulations.**

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Any person who violates any provision of this part or the rules and regulations promulgated hereunder shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1975, p. 706, § 12.

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## O.C.G.A. Title 10, Ch. 1, Art. 9

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

### **Article 9 Gasoline Marketing Practices**

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## O.C.G.A. § 10-1-230

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

### **10-1-230. Short title.**

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This article shall be known and may be cited as the “Gasoline Marketing Practices Act.”

### **History**

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Ga. L. 1973, p. 438, § 1.

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# O.C.G.A. § 10-1-231

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

## **10-1-231. Legislative findings.**

---

The General Assembly finds and declares that the distribution and sales through marketing agreements of gasoline in the State of Georgia vitally affects the general economy of the state, the public interest, and public welfare and that it is necessary, therefore, in the public interest to define the relationships and responsibilities of the parties to such agreements.

## **History**

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Ga. L. 1973, p. 438, § 2.

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## O.C.G.A. § 10-1-232

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)**

### 10-1-232. Definitions.

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As used in this article, the term:

- (1) “Automotive gasoline” or “gasoline” means octane rated fuels made from petroleum products for use in the propulsion of motor vehicles.
- (2) “Automotive gasoline dealer” or “gasoline dealer” means any person or firm engaged primarily in the retail sale of automotive gasoline and related products and services under a marketing agreement entered into with an automotive gasoline distributor.
- (3) “Automotive gasoline distributor” or “gasoline distributor” means any person or firm engaged, whether as a jobber or supplier, in the sale, consignment, or distribution of gasoline to automotive gasoline dealers pursuant to marketing agreements.
- (3.1) “Blended fuel” means a mixture composed of automotive gasoline and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a motor vehicle.
- (3.2) “Blender” means a person or firm which produces blended fuel outside a terminal transfer system.
- (3.3) “Fuel alcohol” means alcohol or fuel grade ethanol.
- (3.4) “Gasohol” means a blended fuel composed of gasoline and fuel grade ethanol.
- (3.5) “Jobber” means an automotive gasoline distributor which is not a supplier.
- (4) “Marketing agreement” or “agreement” means a written agreement, including a franchise, and all related written agreements between an automotive gasoline distributor and an automotive gasoline dealer under which such dealer is supplied automotive gasoline for retail sale or an agreement between an automotive gasoline distributor and an automotive gasoline dealer under which the automotive gasoline dealer is granted the right to occupy premises owned, leased, or controlled by the automotive gasoline distributor for the purpose of engaging in the retail sale of gasoline of the automotive gasoline distributor.
- (4.1) “Position holder” means a person or firm which holds the inventory position in automotive gasoline in a terminal, as reflected on the records of the terminal operator. A person or firm holds the inventory position in automotive gasoline when that person or firm has a contract with the terminal operator for the use of storage facilities and terminaling services for gasoline at the terminal. The term includes a terminal operator which owns gasoline in the terminal.
- (4.2) “Rack” means a mechanism for delivering automotive gasoline from a refinery, a terminal, or a bulk plant into a transport truck, a railroad tank car, or another means of transfer that is outside the terminal transfer system.
- (4.3) “Refiner” means a person or firm which owns, operates, or controls a refinery, wherever located.
- (4.4) “Refinery” means a facility used to process crude oil, unfinished oils, natural gas liquids, or other hydrocarbons into automotive gasoline and from which automotive gasoline may be removed by

pipeline or vessel or at a rack. The term does not include a facility that produces only blended fuel or gasohol.

**(4.5)** “Removal” means a physical transfer other than by evaporation, loss, or destruction. A physical transfer to a transport truck or another means of conveyance outside a terminal transfer system is complete upon delivery into the means of conveyance.

**(5)** “Retail sale of automotive gasoline” means the sale thereof for consumption, and not for resale, at a retail outlet serving the motoring public.

**(6)** “Supplier” means:

**(A)** A position holder or a person or firm which receives automotive gasoline pursuant to a two-party exchange; or

**(B)** A refiner.

**(7)** “Terminal” means an automotive gasoline storage and distribution facility that has been assigned a terminal control number by the United States Internal Revenue Service, is supplied by pipeline or marine vessel, and from which automotive gasoline may be removed at a rack.

**(8)** “Terminal operator” means a person or firm which owns, operates, or otherwise controls a terminal.

**(9)** “Terminal transfer system” means an automotive gasoline distribution system consisting of refineries, pipelines, marine vessels, and terminals. The term has the same meaning as “bulk transfer/terminal system” under 26 C.F.R. Section 48.4081-1.

**(10)** “Two-party exchange” means a transaction in which automotive gasoline is transferred from one licensed supplier to another licensed supplier pursuant to an exchange agreement under which the supplier that is the position holder agrees to deliver automotive gasoline to the other supplier or the other supplier’s customer at the rack of the terminal at which the delivering supplier is the position holder.

## History

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Ga. L. 1973, p. 438, § 3; Ga. L. 1978, p. 2249, §§ 1-3; Ga. L. 2009, p. 201, § 1/SB 30.

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## O.C.G.A. § 10-1-233

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)**

### **10-1-233. Acts of distributor violating article.**

---

It shall be a violation of this article for any gasoline distributor who has a marketing agreement with a gasoline dealer, directly or indirectly, through any officer, agent, or employee, to commit any of the following acts:

- (1) To terminate or cancel such marketing agreement without good cause prior to the expiration date;
- (2) To terminate or cancel an existing marketing agreement prior to this expiration date or to fail to enter into subsequent agreements without having first given written notice setting forth all the reasons for such action to the gasoline dealer at least 60 days in advance of such termination, cancellation, or expiration of the existing agreement; provided, however, that such notice shall not be required of a gasoline distributor acting with reasonable cause to believe the dealer is maliciously and willfully damaging the property rights of the gasoline distributor or if the dealer has voluntarily abandoned the marketing relationship or after five days' notice has failed to pay his just debts when due to the distributor;
- (3) By the use of coercion, intimidation, or threats, to force or induce such gasoline dealer to deal exclusively in products manufactured, distributed, or sponsored by the gasoline distributor or to participate in promotions. Hours of operation which are set in any written agreement in effect prior to July 1, 1978, can only be changed by mutual consent. It shall also be the duty of the distributor to advise the dealer in writing prior to execution of the agreement the projected potential gallonage and the dealer shall acknowledge same in writing prior to execution of the marketing agreement that he is willing to accept same;
- (4) To engage in any acts which have the purpose, intent, or effect of fixing or maintaining prices or of forcing or inducing adherence to prices at which such gasoline distributor's products are to be resold by such gasoline dealers, provided that nothing in this paragraph shall be deemed to prohibit recommendation, suggestion, urging, or discussion;
- (5) To require a gasoline dealer, at the time of entering into a marketing agreement, to assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by this article;
- (6) To require or prohibit any change in management of any gasoline dealer unless such requirement or prohibition of change shall be for good cause, which cause shall be stated in writing by the gasoline distributor;
- (7) To impose standards of performance upon the gasoline dealer other than those in the marketing agreement;
- (8) To provide any term or condition in any marketing agreement, or other agreement ancillary or collateral thereto, which term or condition directly or indirectly violates this article;
- (9) After July 1, 1978, to require operation in excess of a six-day week or in excess of a 12 hour day if the dealer can prove it results in substantially lessening the profits earned in his entire operation to the extent that it is not economically feasible to continue said operation; provided, however, that this

## O.C.G.A. § 10-1-233

paragraph shall in no way impair the obligation of contracts made prior to July 1, 1978; and provided, further, that this paragraph shall not impair the writing of a contract for hours in excess of the hours expressed in this paragraph or impair the right to enforce the hours contained in any contract until sufficient evidence is available to a dealer to exercise the rights provided in this article; and provided, further, that this paragraph shall not be applicable to dealers or distributors who operate a food or convenience store in conjunction with the retail sale of automotive gasoline and related products.

## History

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Ga. L. 1973, p. 438, § 4; Ga. L. 1978, p. 2249, §§ 4, 5; Ga. L. 1983, p. 3, § 8.

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## O.C.G.A. § 10-1-234

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

### **10-1-234. Selling controlled product to another distributor for retail sale; selling to other dealers at distress prices.**

---

It shall be an unlawful predatory and unfair business practice for an automotive gasoline distributor who controls a product supply, controls the price of that product and has the power to require the purchase of that product by another automotive gasoline distributor or an automotive gasoline dealer doing business in this state to sell said product at prevailing automotive gasoline distributor prices at any time to another automotive gasoline distributor for resale to automotive gasoline dealers with the purpose or intent that said product will be sold at retail by said automotive gasoline distributor and fails to offer its automotive gasoline dealers an opportunity to purchase an equal volume of product upon the same terms and conditions, excepting expenses for advertising, credit cards, and other expenses relative to its automotive gasoline dealers, when said automotive gasoline distributor is selling said product at distress prices to other automotive gasoline dealers in the dealer's marketing area. As used in this Code section, the term "distress prices" shall not be construed to include or embrace a price established for the purpose of meeting competition.

### **History**

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Ga. L. 1978, p. 2249, § 6; Ga. L. 1984, p. 1679, § 1; Ga. L. 2017, p. 774, § 10/HB 323.

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## O.C.G.A. § 10-1-234.1

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

### **10-1-234.1. Suppliers may not inhibit gasoline distributors from being blenders.**

---

Regardless of other products offered, any supplier which, pursuant to a marketing agreement, supplies gasoline from a terminal in this state to a gasoline distributor shall offer to supply such party with gasoline that has not been blended with, but is suitable for blending with, fuel alcohol. No supplier shall prevent or inhibit a gasoline distributor in this state from being a blender or from qualifying for any federal or state tax credit due to blenders. If a supplier supplies gasoline to a gasoline distributor pursuant to this Code section which is then blended, the gasoline distributor shall indemnify and hold harmless such supplier against any losses or damages arising out of claims, costs, judgments, and expenses, including reasonable attorney's fees, or suits relating to or arising out of such blending.

### **History**

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Code 1981, § 10-1-234.1, enacted by Ga. L. 2009, p. 201, § 2/SB 30.

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## O.C.G.A. § 10-1-235

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**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)**

### **10-1-235. Action by dealer against distributor for violation of article authorized; nature of relief; attorneys' fees.**

---

(a) Any automotive gasoline dealer may bring an action against its automotive gasoline distributor for violation of this article in the superior court of the county where such distributor resides or, if the distributor is a corporation, in accordance with Title 14, to recover damages sustained by reason of any violation of this article, provided that the dealer shall show as a prerequisite to recovery under this Code section that he has:

- (1) Complied with the reasonable requirements of the marketing agreement; and
- (2) Has acted in good faith in carrying out the terms of the marketing agreement.

(b) The court may grant such equitable relief as is proper, including declaratory judgment and injunctive relief.

(c) Attorneys' fees shall be controlled by Code Section 13-6-11.

### **History**

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Ga. L. 1973, p. 438, § 5; Ga. L. 1978, p. 2249, § 7.

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## O.C.G.A. § 10-1-236

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

### **10-1-236. [Reserved] Action by dealer against distributor for violation of article — Defense of termination of agreement.**

---

#### **History**

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Ga. L. 1973, p. 438, § 7; Ga. L. 1978, p. 2249, §§ 8-10; and Ga. L. 1981, Ex. Sess., p. 8; repealed by Ga. L. 1983, p. 3, § 8, effective January 25, 1983.

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## O.C.G.A. § 10-1-237

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

### **10-1-237. Action by dealer against distributor for violation of article; notice of termination prior to expiration; when premises must be vacated.**

---

Upon receipt of notice to cancel or terminate an existing lease prior to expiration date, it shall be the duty of the dealer to notify the distributor within 30 days thereof of his intention to hold over and to set forth in writing to the distributor his reasons and justifications therefor and thereafter within ten days to file his complaint or application for injunction in the court of proper jurisdiction; and the judge of said court shall within 15 days conduct a hearing in said matter and thereafter within five days hand down a ruling based upon evidence presented as to the granting of a temporary injunction; and, upon the judge's failure to grant the injunction, the dealer shall vacate the premises all according to the lease agreement.

### **History**

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Ga. L. 1973, p. 438, § 8.

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## O.C.G.A. § 10-1-238

Current through the 2022 Regular Session of the General Assembly.

*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)*

### **10-1-238. Action by distributor against dealer for breach of agreement; attorneys' fees.**

---

Any gasoline distributor may bring action against the dealer for failing to fulfill the marketing agreement. Attorneys' fees shall be controlled by Code Section 13-6-11.

### **History**

---

Ga. L. 1973, p. 438, § 11; Ga. L. 1978, p. 2249, § 12; Ga. L. 1993, p. 91, § 10.

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## O.C.G.A. § 10-1-239

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

### **10-1-239. Limitation of actions.**

---

No action shall be brought under Code Section 10-1-235 or Code Section 10-1-238 unless commenced within two years after the cause of action shall have accrued.

### **History**

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Ga. L. 1973, p. 438, § 12.

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## O.C.G.A. § 10-1-240

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

### **10-1-240. Marketing agreements subject to article.**

---

This article shall apply to all marketing agreements as defined in paragraph (4) of Code Section 10-1-232 that are granted, renewed, or amended to extend the lease period on or after July 1, 2009.

### **History**

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Ga. L. 1973, p. 438, §§ 6, 9; Ga. L. 1978, p. 2249, § 11; Ga. L. 2009, p. 201, § 3/SB 30.

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# O.C.G.A. § 10-1-241

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 9 Gasoline Marketing Practices (§§ 10-1-230 — 10-1-241)***

## **10-1-241. Sale of real property not affected.**

---

This article is not intended to alter or change the present law or regulations pertaining to the sale or transfer of title to real property, and the owner may at any time enter into a contract for the bona fide sale of his property.

## **History**

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Ga. L. 1973, p. 438, § 10.

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## **O.C.G.A. Title 10, Ch. 1, Art. 10**

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **Article 10 Sale and Storage of Liquefied Petroleum Gas**

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## O.C.G.A. § 10-1-260

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-260. Short title.**

---

This article shall be known and may be cited as the “Liquefied Petroleum Safety Act of Georgia.”

### **History**

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Ga. L. 1949, p. 1128, § 1; Ga. L. 1992, p. 2134, § 2; Ga. L. 2017, p. 774, § 10/HB 323.

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## O.C.G.A. § 10-1-261

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-261. Legislative finding.**

---

The General Assembly of Georgia finds, determines, and declares that this article is necessary for the immediate preservation of the public peace, health, and safety.

### **History**

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Ga. L. 1949, p. 1128, § 10; Ga. L. 1992, p. 2134, § 2.

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## O.C.G.A. § 10-1-262

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-262. “Liquefied petroleum gas” defined.**

---

As used in this article, the term “liquefied petroleum gas” means any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal butane or isobutane), and butylenes.

### **History**

---

Ga. L. 1949, p. 1128, § 2; Ga. L. 1992, p. 2134, § 2.

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-263. State fire marshal to enforce article.**

---

The state fire marshal, ex officio, shall be designated as the officer charged with the duty and authority of enforcing this article.

### **History**

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Ga. L. 1949, p. 1128, § 3; Ga. L. 1955, p. 221, § 4; Ga. L. 1992, p. 2134, § 2.

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-264. Assistants and employees of state fire marshal.**

---

The state fire marshal is authorized to appoint and employ such assistants and employees, fix their salaries, and assign and delegate such duties and responsibilities as he or she may deem necessary to carry out this article in an efficient manner.

### **History**

---

Ga. L. 1949, p. 1128, § 6; Ga. L. 1955, p. 221, § 4; Ga. L. 1992, p. 2134, § 2; Ga. L. 2017, p. 774, § 10/HB 323.

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## O.C.G.A. § 10-1-265

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-265. Rules and regulations setting standards for liquefied petroleum gas equipment.**

---

**(a)** The state fire marshal shall make, promulgate, adopt, and enforce rules and regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck or tank trailer, and utilizing liquefied petroleum gases and specifying the odorization of said gases and the degree thereof. Said rules and regulations shall be such as are reasonably necessary for the protection of the health, welfare, and safety of the public and persons using such materials and shall be based upon reasonable substantial conformity with the generally accepted standards of safety concerning the same subject matter.

**(b)** Rules and regulations promulgated by the state fire marshal based upon reasonable substantial conformity with the published standards of the National Board of Fire Underwriters for the design, installation, and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases as recommended by the National Fire Protection Association shall be deemed to be in substantial conformity with the generally accepted standards of safety concerning the subject matter.

### **History**

---

Ga. L. 1949, p. 1128, § 4; Ga. L. 1955, p. 221, § 4; Ga. L. 1992, p. 2134, § 2.

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## O.C.G.A. § 10-1-266

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-266. Issuance of licenses or permits; annual fees.**

---

The state fire marshal is authorized and empowered to issue a license or permit to such person, firm, or corporation qualifying under the terms of this article and such rules and regulations as may be adopted by the state fire marshal. For such license or permit issued on or after July 1, 1990, a one-time fee of not less than \$100.00 nor more than \$500.00 shall be charged on a graduated capacity scale for each installation of such person, firm, or corporation doing business in Georgia. All fees, assessments, and collections made by the state fire marshal shall be paid into the general fund of the state treasury. The license or permit of any licensee or permittee who had paid an annual license or permit fee on or after January 1, 1990, but prior to July 1, 1990, shall be valid for the remainder of the period of time covered by such payment and, upon the expiration of such period of time, the licensee or permittee shall become subject to the one-time fee requirement provided in this Code section.

### **History**

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Ga. L. 1949, p. 1128, § 7; Ga. L. 1955, p. 221, § 2; Ga. L. 1990, p. 647, § 1; Ga. L. 1992, p. 2134, § 2.

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## O.C.G.A. § 10-1-267

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-267. Insurance or bond requirements for license or permit holders.**

---

The state fire marshal is authorized and empowered as a prerequisite to a license or permit to require the applicant for such license or permit to furnish insurance, surety bond, or a personal bond with security in such amounts and terms as the state fire marshal may deem advisable and expedient for the protection of the general public and to indemnify for losses and damages which proximately result from any act of negligence of the principal, his agents, or employees while he or they may be engaged in the performance of duties with reference to the liquefied petroleum business. The state fire marshal is also authorized to adopt and enforce reasonable rules and regulations governing such insurance and bonds. Such regulations shall be adopted by the state fire marshal only after a public hearing thereon.

### **History**

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Ga. L. 1949, p. 1128, § 4; Ga. L. 1955, p. 221, § 4; Ga. L. 1992, p. 2134, § 2.

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## O.C.G.A. § 10-1-268

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)**

### **10-1-268. Minimum storage facilities required.**

---

(a) Every entity licensed to sell or distribute liquefied petroleum gas in this state shall have located within the State of Georgia storage capacity for a minimum of 30,000 water gallons of liquefied petroleum gas, except that entities initially licensed prior to July 1, 1990, may continue to operate with the previously approved 18,000 gallons minimum storage capacity. If the 30,000 gallons (water capacity) storage consists of more than one container, then no storage container used to meet this requirement shall be of a size less than 6,000 gallons (water capacity).

(b) The storage capacity required by subsection (a) of this Code section shall be within close proximity to the area serviced.

(c) The state fire marshal, in his discretion and in accordance with such rules and regulations as have been or may be duly promulgated and adopted under this article, may waive the minimum bulk storage facility requirement of subsection (a) of this Code section.

(d) If the storage capacity required by subsection (a) of this Code section is leased or rented, then such storage capacity must be dedicated to the exclusive use of the lessee and must include separate piping and loading/unloading facilities.

### **History**

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Ga. L. 1955, p. 221, § 1; Ga. L. 1960, p. 143, § 1; Ga. L. 1990, p. 1434, § 1; Ga. L. 1992, p. 2134, § 2.

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## O.C.G.A. § 10-1-269

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-269. Suspension or revocation of license or imposition of penalty by state fire marshal.**

---

The state fire marshal, upon ten days' written notice in the form of a show cause order to the licensee stating his contemplated action and in general the grounds therefor and after giving the licensee a reasonable opportunity to be heard, subject to the right to review provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," may, by order in writing, suspend or revoke any license issued under this article or, in lieu thereof, may assess a penalty against said licensee in an amount not to exceed \$1,000.00, if the state fire marshal shall find:

- (1) That the licensee has failed to pay the license fee or any fee required under this article or any penalty imposed under the article; or
- (2) That the licensee knowingly has violated any of the provisions of this article or any of the rules and regulations promulgated under this article; provided, however, that any such suspension or revocation or imposition of penalty shall not become final, pending and subject to the right of review provided in Chapter 13 of Title 50, but the court shall have and is granted power to enter such order as justice shall require pending hearing on the appeal; and provided, further, the court upon the appeal may tax the cost, including the cost of the hearing before the state fire marshal, against the losing party.

### **History**

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Ga. L. 1960, p. 143, § 2; Ga. L. 1990, p. 647, § 2; Ga. L. 1992, p. 2134, § 2.

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## O.C.G.A. § 10-1-270

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-270. Conflicting local ordinances or regulations prohibited.**

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No municipality or other political subdivision of this state shall adopt or enforce any ordinance, rule, or regulation in conflict with this article or with the rules and regulations adopted and promulgated by the state fire marshal under the terms and authority of this article.

### **History**

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Ga. L. 1949, p. 1128, § 9; Ga. L. 1955, p. 221, § 4; Ga. L. 1992, p. 2134, § 2.

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## O.C.G.A. § 10-1-271

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-271. Reciprocal agreements with other states.**

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The state fire marshal is authorized to enter into reciprocal agreements with another state to effectuate the purposes of this article.

### **History**

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Ga. L. 1955, p. 221, § 3; Ga. L. 1992, p. 2134, § 2.

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## O.C.G.A. § 10-1-272

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 10 Sale and Storage of Liquefied Petroleum Gas (§§ 10-1-260 — 10-1-272)***

### **10-1-272. Penalty for violating article or rules and regulations.**

---

Any person, firm, association, or corporation violating this article or any of the rules and regulations of the state fire marshal made under this article shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1949, p. 1128, § 8; Ga. L. 1955, p. 221, § 4; Ga. L. 1992, p. 2134, § 2.

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## O.C.G.A. Title 10, Ch. 2

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2)***

### **CHAPTER 2 Weights and Measures**

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# O.C.G.A. Title 10, Ch. 2, Art. 1

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

## **Article 1 General Provisions**

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# O.C.G.A. § 10-2-1

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)**

## 10-2-1. Definitions.

---

As used in this chapter and any rules or regulations promulgated pursuant to this chapter, the term:

- (1) “Commissioner” means the Commissioner of Agriculture, the primary constitutional officer of the Georgia Department of Agriculture, charged with the responsibility of enforcing weights and measures laws and regulations.
- (2) “Correct,” as used in connection with weights and measures, means conformance to all applicable requirements of this chapter.
- (3) “Measure” means a volume of standard dry or liquid capacity.
- (4) “Package” means any commodity put up or packaged in any manner, in advance of sale, in units suitable for either wholesale or retail sale.
- (5) “Person” means and includes individuals, partnerships, firms, corporations, companies, societies, and associations.
- (6) “Primary standards” means the physical standards of the State of Georgia which serve as the legal reference from which all other standards and weights and measures are derived.
- (7) “Sale from bulk” or “bulk sale” means the sale of commodities when the quantity is determined at the time of the sale.
- (8) “Secondary standards” means the physical standards which are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and regulations.
- (9) “Weight,” as used in connection with any commodity, means net weight.
- (10) “Weights and measures” means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices.

## History

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Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-2

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-2. Recognized systems of weights and measures.**

---

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized; and either one, or both, of these systems shall be used for all commercial purposes in the state. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the National Institute of Standards and Technology are recognized and shall govern weighing and measuring equipment and transactions in the State of Georgia.

### **History**

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Ga. L. 1972, p. 654, § 1; Ga. L. 2015, p. 385, § 4-1/HB 252.

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## O.C.G.A. § 10-2-3

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### **10-2-3. Primary standards of weights and measures; prescribing and verifying secondary standards.**

---

Weights and measures that are traceable to the United States prototype standards supplied by the federal government, or approved as being satisfactory by the National Institute of Standards and Technology, shall be the State of Georgia's primary standards of weights and measures and shall be maintained in such calibration as prescribed by the National Institute of Standards and Technology. All secondary standards may be prescribed by the Commissioner and shall be verified upon their initial receipt, and as often thereafter as deemed necessary, by the Commissioner.

### **History**

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Ga. L. 1941, p. 510, § 1; Ga. L. 1972, p. 654, § 1; Ga. L. 2015, p. 385, § 4-1/HB 252.

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## O.C.G.A. § 10-2-4

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### **10-2-4. Technical requirements for commercial weighing and measuring devices.**

---

The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 44, entitled "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices," and supplements thereto or revisions thereof, shall apply to commercial weighing and measuring devices in the State of Georgia, except insofar as modified or rejected by rules and regulations.

### **History**

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Ga. L. 1972, p. 654, § 1; Ga. L. 2015, p. 385, § 4-1/HB 252.

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## O.C.G.A. § 10-2-5

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### **10-2-5. Powers and duties of Commissioner generally.**

---

The Commissioner shall:

- (1) Maintain traceability of the State of Georgia's standards to the National Institute of Standards and Technology;
- (2) Enforce this chapter;
- (3) Promulgate, adopt, and issue reasonable rules and regulations for the enforcement of this chapter. Such rules and regulations shall have the force and effect of law;
- (4) Establish standards of weight, measure, or count and reasonable standards of fill. The Commissioner is authorized to establish standards for the presentation of cost-per-unit information for any packaged commodity;
- (5) Grant any exemptions from this chapter or any rules or regulations promulgated pursuant thereto when appropriate to the maintenance of good commercial practices within the state;
- (6) Conduct investigations to ensure compliance with this chapter;
- (7) Delegate to appropriate personnel any of these responsibilities for the proper administration of his office;
- (8) Test the standards of weight and measure used by any inspector of the State of Georgia, adjust where necessary, and approve the same when found to be, or made to be, correct;
- (9) Inspect and test weights and measures kept, offered, or exposed for sale;
- (10) Inspect and test, to ascertain if they are correct, weights and measures commercially used:
  - (A) In determining the weight, measure, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure, or count; or
  - (B) In computing the basic charge or payment for services rendered on the basis of weight, measure, or count;
- (11) Test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which funds are appropriated by the General Assembly;
- (12) Approve for use such weights and measures as he finds to be correct. The Commissioner, in his sole discretion, is authorized to mark approved weights and measures. He shall reject and mark as rejected any weights and measures he finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The Commissioner shall condemn and may seize weights and measures found to be incorrect that are not capable of being made correct;
- (13) Employ, in carrying out this Code section, testing, inspection, and sampling procedures which are in accordance with this chapter, rules and regulations promulgated pursuant to this chapter, or procedures designated in Handbooks 130 and 133 of the National Institute of Standards and Technology;

## O.C.G.A. § 10-2-5

- (14) Prescribe, by regulation, the appropriate term or unit of weight or measure to be used whenever he determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion;
- (15) Establish, by regulation, a schedule of fees to cover the costs of the inspection and certification of weighing and measuring devices, the registration of scale mechanics, the certifying of weights, and scale registration; and
- (16) Allow reasonable variations from the stated quantity of contents. Such variations shall include those caused by loss or gain of moisture during the course of good distribution practices or by unavoidable deviations in good manufacturing practices only after the commodity has entered intrastate commerce.

## History

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Ga. L. 1941, p. 510, §§ 2, 3, 5; Ga. L. 1972, p. 654, § 1; Ga. L. 1991, p. 363, § 1; Ga. L. 1992, p. 1278, § 1; Ga. L. 1994, p. 97, § 10; Ga. L. 2015, p. 385, § 4-1/HB 252.

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## O.C.G.A. § 10-2-6

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-6. Power of Commissioner to inspect commercial premises and vehicles; stop-use or stop-sale, hold, and removal orders; seizure.**

---

When necessary for the enforcement of this chapter or rules or regulations promulgated pursuant to this chapter, the Commissioner is:

- (1) Authorized to enter any commercial premises when open for business, except that, in the event such premises are not open to the public, he shall first present his credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained;
- (2) Empowered to issue stop-use, hold, and removal orders with respect to any commercially used weights and measures and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodities kept, offered, or exposed for sale;
- (3) Empowered to seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered, or exposed for sale or sold in violation of this chapter or rules or regulations promulgated pursuant thereto;
- (4) Empowered to stop any commercial vehicle and, after presentment of his credentials, inspect the contents, require that the person in charge of the vehicle produce any documents in his possession concerning the contents of the vehicle, and require him to proceed with the vehicle to some specified place, which shall not be more than 25 miles distant from the location where the vehicle was stopped, for inspection;
- (5) Authorized to investigate and prosecute any person violating this chapter.

### **History**

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Ga. L. 1941, p. 510, §§ 3, 5; Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-7

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### **10-2-7. Misrepresentation of quantity in selling or buying prohibited.**

---

No person shall sell, offer, or expose for sale less than the quantity he represents nor take any more than the quantity he represents when, as buyer, he furnishes the weight or measure by means of which the quantity is determined.

### **History**

---

Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-8

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-8. Misrepresentation or deception in pricing by weight, measure, or count prohibited.**

---

No person shall misrepresent the price of any commodity or service sold, offered, exposed, or advertised for sale by weight, measure, or count nor represent the price in any manner calculated to, or tending to, mislead or in any way deceive a person.

### **History**

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Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-9

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### **10-2-9. Permissible methods of selling by quantity.**

---

Except as otherwise provided by rules or regulations promulgated by the Commissioner, commodities in a liquid form shall be sold by liquid measure or by weight; and commodities not in the liquid form shall be sold only by weight, measure, or count, so long as the method of sale provides accurate quantity information.

### **History**

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Ga. L. 1941, p. 510, § 4; Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-10

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### **10-2-10. Delivery tickets for bulk sales and bulk deliveries of heating fuel.**

---

Whenever the quantity is determined by the seller, bulk sales in excess of \$20.00 and all bulk deliveries of heating fuel shall be accompanied by a delivery ticket containing the following information:

- (1) The name and address of the vendor and purchaser;
- (2) The date delivered;
- (3) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity;
- (4) The identity of the goods or commodities in the most descriptive terms commercially practicable, including any quantity representation made in connection with the sale; and
- (5) The count of individually wrapped packages, if more than one.

### **History**

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Ga. L. 1972, p. 654, § 1; Ga. L. 2017, p. 774, § 10/HB 323.

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## O.C.G.A. § 10-2-11

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### **10-2-11. Information required on packages.**

---

Except as otherwise provided in this chapter or by rules or regulations promulgated pursuant to this chapter, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

- (1) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container;
- (2) The quantity of contents in terms of weight, measure, or count; and
- (3) The name and place of business of the manufacturer, packer, or distributor in the case of any package kept, offered, exposed for sale, or sold in any place other than on the premises where packed.

### **History**

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Ga. L. 1972, p. 654, § 1; Ga. L. 2017, p. 774, § 10/HB 323.

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## O.C.G.A. § 10-2-12

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### **10-2-12. Unit price required on packages with random weights.**

---

In addition to the declarations required by Code Section 10-2-11, any package which is one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall contain a plain and conspicuous declaration of the price per single unit of weight on the outside of the package.

### **History**

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Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-13

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### **10-2-13. Advertisements of packaged commodities must state quantity with retail price.**

---

Whenever a packaged commodity is advertised in any manner with the retail price stated, a declaration of quantity as is required by this article or by rule or regulation of the Commissioner of Agriculture shall appear on the package and shall be closely and conspicuously associated with the retail price. Where a dual declaration is required, only the declaration that sets forth quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

### **History**

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Ga. L. 1972, p. 654, § 1; Ga. L. 1982, p. 3, § 10.

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## O.C.G.A. § 10-2-14

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-14. Using or possessing incorrect weight or measure; removing tags, seals, or marks; obstructing enforcement.**

---

It shall be unlawful for any person to:

- (1) Use or possess any incorrect weight or measure for use in commerce;
- (2) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the Commissioner;
- (3) Hinder or obstruct the Commissioner or any deputy or other official designated by the Commissioner and charged with the enforcement of the laws of this state dealing with weights and measures in the performance of his duties.

### **History**

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Ga. L. 1941, p. 510, § 6; Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-15

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-15. Grain moisture testing equipment — Standards; inspections.**

---

It shall be the duty of the Commissioner to adopt standards for moisture testing equipment utilized in determining the moisture content of grain offered for sale in this state. Upon the establishment of such standards, it shall be unlawful for any person to utilize any such equipment which does not comply with the standards established pursuant to this Code section. It shall be the duty of the Commissioner to enforce this Code section and to make such inspections as shall be necessary to assure that all moisture testing equipment complies with the standards.

### **History**

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Ga. L. 1962, p. 631, § 1; Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-16

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-16. Grain moisture testing equipment — Operator to obtain permit.**

---

No person shall operate moisture testing equipment to determine the moisture content of grain offered for sale unless such person shall be trained in the operation thereof and shall have obtained a permit from the Commissioner after submitting proof to the Commissioner of his ability to such equipment. Any such permit shall be valid until suspended or revoked for cause after notice and hearing, in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” There shall be no fee for such permit.

### **History**

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Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-17

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-17. Inspection of scales used in intrastate shipments.**

---

The Commissioner is authorized to inspect scales used for the calculation and determination of fees or charges for the transportation of bulk materials, packages, goods, and commodities in intrastate shipments by rail, parcel services, motor vehicles, motor transport, buses, and airlines.

### **History**

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Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-18

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-18. When weight, measure, or weighing or measuring device presumed used in business.**

---

Whenever there shall exist a weight or measure or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used in the business conducted at such place.

### **History**

---

Ga. L. 1972, p. 654, § 1.

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## O.C.G.A. § 10-2-19

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-19. Manner of display of measurement of compressed natural gas on dispensing devices.**

---

(a) As used in this Code section, the term “compressed natural gas” means a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form, that has been compressed for use as a motor fuel.

(b) Notwithstanding any provision contained in the National Institute of Standards and Technology Handbook or any other national standard that may be adopted in this state by law or regulation, any dispensing device used to dispense compressed natural gas for use as a motor vehicle fuel may display the measurement of compressed natural gas in gallon equivalent units or fractions thereof and may compute the sales price of compressed natural gas according to such units or fractions thereof; provided, however, that such gallon equivalent shall contain not less than 110,000 British thermal units.

### **History**

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Code 1981, § 10-2-19, enacted by Ga. L. 1993, p. 811, § 1; Ga. L. 2015, p. 385, § 4-1/HB 252.

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## O.C.G.A. § 10-2-20

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### **10-2-20. Enjoining violations.**

---

The Commissioner or his representative, at the discretion of the Commissioner, is authorized to apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

### **History**

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Ga. L. 1972, p. 654, § 1; Code 1981, § 10-2-19; Code 1981, § 10-2-20, as redesignated by Ga. L. 1993, p. 811, § 1.

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## O.C.G.A. § 10-2-21

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)**

### **10-2-21. Administrative penalty for violations; judicial review; proceedings for collection.**

---

(a) As an alternative to criminal or other civil enforcement, the Commissioner, in order to enforce this article or any orders, rules, or regulations promulgated pursuant thereto, after a hearing, may issue an administrative order imposing a penalty not to exceed \$1,000.00 for each violation whenever the Commissioner, after a hearing, determines that any person has violated this article or any rules, regulations, or orders promulgated pursuant to this article. The hearing and any administrative review thereof shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(b) Any person who has exhausted all administrative remedies available and who is aggrieved or adversely affected by any final order or action of the Commissioner shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50.

(c) All penalties recovered as provided in this Code section shall be paid into the state treasury.

(d) The Commissioner may file in the superior court wherein the person under order resides or, if said person is a corporation, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. The 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 the court.

(e) The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the Commissioner with respect to any violation of this article and any orders, rules, or regulations promulgated pursuant thereto.

### **History**

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Ga. L. 1979, p. 655, § 1; Code 1981, § 10-2-20; Code 1981, § 10-2-21, as redesignated by Ga. L. 1993, p. 811, § 1.

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## O.C.G.A. § 10-2-22

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 1 General Provisions (§§ 10-2-1 — 10-2-23)***

### **10-2-22. Criminal penalty for violations.**

---

Any person, firm, partnership, corporation, society, or association who shall violate this article, relating to weights and measures in general, or any rule or regulation promulgated pursuant to this article, shall be guilty of a misdemeanor.

### **History**

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Laws 1833, Cobb's 1851 Digest, p. 821; Ga. L. 1851-52, p. 263, § 1; Code 1863, § 4458; Ga. L. 1865-66, p. 231, § 5; Code 1868, § 4502; Code 1873, § 4590; Code 1882, § 4590; Penal Code 1895, § 661; Penal Code 1910, § 706; Code 1933, § 112-9901; Ga. L. 1941, p. 510, § 9; Ga. L. 1972, p. 654, § 2; Code 1981, § 10-2-21; Code 1981, § 10-2-22, as redesignated by Ga. L. 1993, p. 811, § 1.

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## O.C.G.A. § 10-2-23

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### **10-2-23. Sale and measurement of pulpwood, sawtimber, poles, and other types of timber.**

---

All pulpwood, sawtimber, poles, and other types of timber sold or measured in this state by weight shall be sold on the basis of tonnage or pounds, with one ton equaling 2,000 pounds. Nothing in this Code section shall prohibit the sale or measurement of such products by measured volume, so long as such measurement is not calculated by weight.

### **History**

---

Code 1981, § 10-2-23, enacted by Ga. L. 1993, p. 446, § 1.

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## O.C.G.A. Title 10, Ch. 2, Art. 2

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 2 Certified Public Weighers (§§ 10-2-40 — 10-2-54)***

### **Article 2 Certified Public Weighers**

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## O.C.G.A. § 10-2-40

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*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 2 Certified Public Weighers (§§ 10-2-40 — 10-2-54)*

### **10-2-40. Persons who may be licensed and known as certified public weighers.**

---

Any person who shall weigh, measure, or record the indications or readings of weighing or measuring and declare the weight, measure, reading, or recording to be the true weight, measure, reading, or recording of any commodity, article, or product may be licensed under this article and shall be known as a certified public weigher of Georgia.

### **History**

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Ga. L. 1949, p. 1179, § 1.

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## O.C.G.A. § 10-2-41

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 2 Certified Public Weighers (§§ 10-2-40 — 10-2-54)**

### 10-2-41. License required; application; issuance.

---

(a) Any person who desires to be a certified public weigher in this state shall apply for and obtain a license permit from the Commissioner by filing a formal application as follows:

I, \_\_\_\_\_, a citizen of the United States, residing at \_\_\_\_\_,  
County of \_\_\_\_\_, having familiarized myself with the law relative to licensing of  
certified public weighers, do hereby make application for license permit as a certified public weigher.

I certify that I am morally and physically fit to perform the duties imposed upon a certified public weigher  
and that I will, if licensed, faithfully and accurately make true recordings and will comply with the law  
and rules and regulations relating to certified public weighers to the best of my knowledge and ability.

\_\_\_\_\_  
Name Address

We, the undersigned, being citizens of Georgia, do certify that the applicant herein is a person of good  
moral character and that the statements made in the foregoing application are true to the best of our  
knowledge and belief and that our endorsement is without fear of embarrassment.

\_\_\_\_\_  
Name Address

\_\_\_\_\_  
Name Address

\_\_\_\_\_  
Name Address

(b) Upon his appointment as a certified public weigher, a license permit shall be issued to him authorizing  
the applicant to weigh, measure, and record any and all commodities.

### History

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Ga. L. 1949, p. 1179, § 3.

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## O.C.G.A. § 10-2-42

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 2 Certified Public Weighers (§§ 10-2-40 — 10-2-54)***

### **10-2-42. Duration of license; fees; cost of seals.**

---

Certified public weighers shall be licensed for a period of one year beginning on July 1 and ending on June 30, next. A fee of \$15.00 shall be paid to the Commissioner by each person so licensed at the time application is filed. A fee of \$15.00 shall be required for each renewal of a license as a certified public weigher. In addition thereto, the applicant shall pay the actual cost of seals required under this article. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

### **History**

---

Ga. L. 1949, p. 1179, § 10; Ga. L. 1956, p. 334, § 3; Ga. L. 2010, p. 9, § 1-27/HB 1055.

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## O.C.G.A. § 10-2-43

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### **10-2-43. Revocation of license permit for malfeasance or violation; notice and hearing.**

---

After reasonable notice and opportunity for a hearing before the Commissioner, in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” any license permit as a certified public weigher may be revoked by the Commissioner for malfeasance in office or for the violation of this article or for violation of any rule or regulation promulgated under the terms of this article.

### **History**

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Ga. L. 1949, p. 1179, § 12.

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## O.C.G.A. § 10-2-44

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### **10-2-44. [Reserved] Surety bonds.**

---

#### **History**

---

Ga. L. 1949, p. 1179, § 5; Ga. L. 1956, p. 334, § 1; Ga. L. 1956, p. 631, § 6; and Ga. L. 1981, Ex. Sess., p. 8; repealed by Ga. L. 1991, p. 322, § 1, effective July 1, 1991.

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## O.C.G.A. § 10-2-45

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### **10-2-45. Certified public weigher’s official seal.**

---

It shall be the duty of every certified public weigher licensed under this article to obtain through the Department of Agriculture an official seal which shall have inscribed thereon the following words: “Georgia Certified Public Weigher” or such other design or legend as the Commissioner may deem appropriate. The seal shall be stamped or impressed upon each and every weight, measure, count, reading, or recording certificate issued by such certified public weigher. When so applied, the certificate shall be recognized and accepted as a declaration of the official, true, and accurate weight, measure, count, reading, or recording of the commodity, product, or article weighed, measured, or counted with the tolerance allowed by Article 1 of this chapter.

### **History**

---

Ga. L. 1949, p. 1179, § 6.

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## O.C.G.A. § 10-2-46

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 2 Certified Public Weighers (§§ 10-2-40 — 10-2-54)***

### **10-2-46. Issuance of official seals to licensed tobacco warehousemen.**

---

For the weighing of leaf tobacco sold or offered for sale at a licensed tobacco warehouse, an official seal for certification of all weights made at the warehouse may be issued directly to the licensed warehouseman and may be used for all weighings made at the warehouse, provided that all weighings shall be made by certified public weighers.

### **History**

---

Ga. L. 1975, p. 1302, § 1; Ga. L. 1982, p. 3, § 10.

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## O.C.G.A. § 10-2-47

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### **10-2-47. Return of seal on termination of duties.**

---

In the interest of public welfare, the seal provided for a certified public weigher shall be the property of the State of Georgia and shall be returned to the Commissioner upon termination of the duties as a certified public weigher.

### **History**

---

Ga. L. 1949, p. 1179, § 11.

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## O.C.G.A. § 10-2-48

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### **10-2-48. Duties of certified public weighers.**

---

It shall be the duty of bonded certified public weighers licensed under this article to issue certificates of weight, measure, count, or recording on forms to be approved by the Commissioner and to comply with this article and the rules and regulations promulgated relating thereto.

### **History**

---

Ga. L. 1949, p. 1179, § 4; Ga. L. 1956, p. 631, § 5.

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## O.C.G.A. § 10-2-49

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 2 Weights and Measures (Arts. 1 — 2) > Article 2 Certified Public Weighers (§§ 10-2-40 — 10-2-54)***

### **10-2-49. Use of untested weight, measure, or device prohibited.**

---

It shall be unlawful for any certified public weigher to use any weights, measures, reading, or recording device which has not been tested and approved by the Commissioner or his assistant, deputy, or inspector in accordance with Article 1 of this chapter.

### **History**

---

Ga. L. 1949, p. 1179, § 9.

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## O.C.G.A. § 10-2-50

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### **10-2-50. Weighing leaf tobacco and livestock.**

---

- (a) On and after March 9, 1956, all leaf tobacco sold, or offered for sale, in a tobacco warehouse shall be weighed by a certified public weigher who has been licensed by the Commissioner.
- (b) Livestock of any kind sold or offered for sale at any sales or auction barn shall be weighed by a certified public weigher who has been licensed by the Commissioner.

### **History**

---

Ga. L. 1956, p. 631, §§ 2, 3; Ga. L. 1991, p. 322, § 2.

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## O.C.G.A. § 10-2-51

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### **10-2-51. Sale of coal or coke by itinerant dealer without having weight certified; penalty.**

---

Any itinerant dealer who shall sell or offer to sell coal or coke by a weight other than a weight certified by a person licensed under this article shall be guilty of a misdemeanor.

### **History**

---

Ga. L. 1957, p. 374, § 1.

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## O.C.G.A. § 10-2-52

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### **10-2-52. Commissioner of Agriculture to administer article; rules and regulations; regulation of livestock auction barns.**

---

This article shall be administered by the Commissioner of Agriculture, and he is empowered to make and promulgate rules and regulations necessary for the enforcement of this article and may regulate sales order of livestock at auction sales barns.

### **History**

---

Ga. L. 1949, p. 1179, § 2; Ga. L. 1956, p. 631, § 4.

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## O.C.G.A. § 10-2-53

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### **10-2-53. Administrative penalty for violation of article or order, rule, or regulation; judicial review; proceedings for collection.**

---

- (a) As an alternative to criminal or other civil enforcement, the Commissioner, in order to enforce this article or any orders, rules, and regulations promulgated pursuant thereto, after a hearing, may issue an administrative order imposing a penalty not to exceed \$1,000.00 for each violation whenever the Commissioner, after a hearing, determines that any person has violated this article or any rules, regulations, or orders promulgated under this article. The hearing and any administrative review thereof shall be conducted in accordance with the procedures for contested cases under Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”
- (b) Any person who has exhausted all administrative remedies available and who is aggrieved or adversely affected by any final order or action of the Commissioner shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50.
- (c) All penalties recovered as provided in this Code section shall be paid into the state treasury.
- (d) The Commissioner may file in the superior court wherein the person under order resides, or, if said person is a corporation, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal, whereupon said court shall render judgment in accordance therewith and notify the parties. The judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though the judgment has been rendered in a suit duly heard and determined by the court.
- (e) The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the Commissioner with respect to any violation of this article and any orders, rules, or regulations promulgated pursuant thereto.

### **History**

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Ga. L. 1979, p. 654, § 1.

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## O.C.G.A. § 10-2-54

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### **10-2-54. Criminal penalties for violations; revocation of licenses; forfeiture of seals.**

---

**(a)** Any certified public weigher who shall issue a certificate giving a false weight, measure, count, or reading, or who shall misrepresent the weight, measure, count, or reading of any commodity, produce, or article, or who shall otherwise violate this article or any of the rules promulgated by authority of this article shall be guilty of a misdemeanor; and, in addition thereto, his license as a certified public weigher shall be revoked and he shall forfeit his seal, which, when so forfeited, shall be turned over to the Commissioner.

**(b)** Any person, firm, or corporation who shall request a certified public weigher to weigh, measure, count, read, or record any commodity, product, or article falsely or incorrectly or who shall request a false or inaccurate certificate of weight, measure, count, reading, or recording; or any person issuing a certificate of weight, measure, count, or recording within the meaning of this article who is not licensed as a certified public weigher in accordance with this article; or any person who shall in any way impersonate by acting as, or for, a certified public weigher; or any person who shall erase, change, or alter any certificate issued by a certified public weigher, shall be guilty of a misdemeanor.

**(c)** Failure or refusal of a person licensed as a certified public weigher under this article to surrender the official seal to the Commissioner upon termination of his license or for malfeasance in office shall be a misdemeanor, and any person convicted thereof shall be punished by a fine of not less than \$10.00 nor more than \$200.00, or by imprisonment for not more than three months, in the discretion of the court.

### **History**

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Ga. L. 1949, p. 1179, §§ 7, 8, 11; Ga. L. 1956, p. 334, § 2.

Official Code of Georgia Annotated

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## O.C.G.A. Title 10, Ch. 4

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5)***

### **CHAPTER 4 Warehousemen**

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# O.C.G.A. Title 10, Ch. 4, Art. 1

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

## **Article 1 State Licensed and Bonded Warehouses**

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## O.C.G.A. § 10-4-1

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-1. Short title.**

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This article shall be cited as the “Georgia State Warehouse Act.”

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 1.

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## O.C.G.A. § 10-4-2

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)**

### 10-4-2. Definitions.

---

As used in this article, the term:

- (1) “Agricultural product” means individually and collectively all grains, cotton, meat, fruits, vegetables, and other farm products offered or accepted for storage in their raw or natural state; provided, however, that products which have been processed only to the extent of shelling, cleaning, and grading shall be included; and, provided, further, that any warehouseman storing refrigerated or processed agricultural products may, at his option, come under the operation of this article.
- (2) “Commissioner” means the Commissioner of Agriculture.
- (3) “Grain” means all products commonly classed as grain, such as wheat, corn, oats, barley, rye, rice, field peas, soybeans, clover, grain sorghum, and other products ordinarily stored in grain warehouses.
- (4) “Person” means any individual, partnership, firm, corporation, association, or other organized group having a joint or common interest.
- (5) “Producer” means a farmer or grower of agricultural products.
- (6) “Public warehouse” or “warehouse” means any building, structure, or other enclosure other than a refrigerated building or structure in this state at which any agricultural product is received from the public for storage for hire.
- (7) “Receipt” means a warehouse receipt issued under this article.
- (8) “Storer” means the depositor of agricultural products stored under a nonnegotiable receipt or the holder of a negotiable receipt for such products issued by a warehouseman licensed under this article.
- (9) “Warehouseman” means a person engaged in the business of operating a warehouse or any person who uses or undertakes to use a warehouse for the purpose of storing agricultural products for compensation for more than one person; provided, however, any person operating a warehouse not covered by this article may elect to come under this article.

### History

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 2; Ga. L. 1982, p. 3, § 10.

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## O.C.G.A. § 10-4-3

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-3. State warehouse section established; supervisor of section.**

---

Within the police powers of the state and for the general welfare, there is established as provided in this article a warehouse system for the State of Georgia as a section of the Marketing Division of the Department of Agriculture under the supervision and control of the Commissioner of Agriculture. The Commissioner is authorized to appoint a supervisor of such section, subject to the provisions of Chapter 20 of Title 45. The supervisor shall give bond in such amount as the Commissioner shall determine for the faithful performance of his duties and the proper accounting of all funds coming into his hands.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 4; Ga. L. 1959, p. 246, § 1.

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## O.C.G.A. § 10-4-4

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-4. Exemptions from article; warehousemen electing to be covered.**

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- (a) The provisions of this article shall not be construed to apply to:
- (1) Any warehouse licensed under the United States Warehouse Act, as amended, if the licensee has in effect a federal bond in an amount not less than the amount of the bond which would be required under subsections (a) and (b) of Code Section 10-4-12; or
  - (2) Any warehouse kept or maintained by any warehouseman on the premises of any other person under a contract between the warehouseman and the other person for the primary purpose of storage therein of agricultural products of the other person, provided that no agricultural products are stored therein for the account of any producer other than the other person; provided, however, that such warehouseman may come under this article at his option.
- (b) Any person, firm, corporation, or association storing peanuts, cottonseed, or tobacco may be required only, at his or its option, by application, to qualify and come under this article.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 30; Ga. L. 1983, p. 946, § 1.

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## O.C.G.A. § 10-4-5

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)**

### **10-4-5. Powers and duties of Commissioner; annual reports; adoption of rules and regulations.**

---

(a) It shall be the duty of the Commissioner to foster and promote in every possible way good warehousing practices so as to afford proper storage of agricultural products; to enforce with vigilance this article; to promulgate such rules and regulations having the force and effect of law as will effectuate the purposes of this article.

(b) The Commissioner shall, on or before January 1, prepare and submit to the Governor and the General Assembly a report covering all the activities of the Commissioner for the preceding year which shall, among other things, show the number of licenses issued, the number of warehouse examinations made on application for license, and the number of examinations of warehouses to ascertain whether their operation, condition, and business are in compliance with this article and the rules and regulations promulgated under this article. The report shall account for all fees collected and money expended and shall indicate the fiscal needs for administration of this article for the succeeding year. The report may be printed by the Commissioner and distributed to any persons, organizations, and public officials as may be interested.

(c) The Commissioner is authorized to investigate the storage and weighing of agricultural products; at any time, to examine or cause to be examined all warehouses under this article and all agricultural products stored therein; to determine whether such warehouses are suitable for the proper storage of the agricultural product or products stored or proposed to be stored therein; and to classify such warehouses in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this article.

(d) The Commissioner may make such rules and regulations as are necessary or appropriate governing the operation of warehouses under this article with respect to their receipt, care, and delivery of and responsibility for agricultural products received at such warehouses for storage; the issuance, cancellation, division, and consolidation of receipts and other matters relative to the management of the business of such warehouses; and such other rules and regulations as are necessary or appropriate to carry out this article, to the end that any farmer or producer or storer of agricultural commodities may be assured that agricultural products stored by him are maintained in as nearly the same status as practicable according to the grade, standard, and condition as when stored.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, §§ 3, 25; Ga. L. 1989, p. 14, § 10.

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## O.C.G.A. § 10-4-6

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### **10-4-6. Procedure for adopting or changing rules and regulations; administrative review of objections.**

---

(a) Prior to the adoption or change of any rule or regulation, the Commissioner shall promulgate the proposed rule or regulation or change and afford interested persons opportunity to be heard and submit data and views orally or in writing.

(b) Any person with a real and substantial interest who is affected by a rule or regulation of the Commissioner and who believes that the Commissioner, in the promulgation or enforcement of such rule or regulation, has exceeded authority vested in him by the General Assembly under the Constitution of Georgia or of the United States shall have the right to petition the Commissioner of Agriculture for the repeal or revision of such rule by pointing out in what respect and for what reasons he contends the rule to be unlawful or unconstitutional. The Commissioner is required to consider every such petition and afford the petitioner an opportunity to be heard within 30 days and, after argument, the Commissioner shall determine the merits of the petition. If the Commissioner decides in whole or in part in favor of the petitioner, the Commissioner shall take corrective measures within 30 days after the hearing to give the petitioner relief in every respect from any unlawful or unconstitutional rule or regulation. The foregoing is expressly made an administrative remedy; and every person affected by any rule or regulation or any act of the Commissioner is required to exhaust this remedy before taking any other steps, except as otherwise provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(c) All hearings before the Commissioner shall be stenographically reported by a qualified court reporter and shall be available to any interested party upon payment of the stenographic costs.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 26; Ga. L. 1989, p. 14, § 10.

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## O.C.G.A. § 10-4-7

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### **10-4-7. Uniform application of orders, fees, rules, and regulations.**

---

All rules and regulations, orders, schedules of charges, and fees approved or promulgated or issued by the Commissioner under the terms of this article shall be of uniform application to all warehouses of the same class throughout the state.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 27.

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## O.C.G.A. § 10-4-8

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### **10-4-8. Existing interstate commerce regulations not affected.**

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Nothing contained in this article shall be interpreted so as to conflict with any existing regulations of the federal government, or of the federal and state governments jointly, governing inspection of goods in interstate commerce.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 31.

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## O.C.G.A. § 10-4-9

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### **10-4-9. Judicial review of administrative decision.**

---

Any person aggrieved by a final determination or decision of the Commissioner in any matter in which a hearing is required or authorized by this article or the state or federal constitutions is entitled to judicial review thereof in accordance with the provisions of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” for the judicial review of contested cases.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 29.

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## O.C.G.A. § 10-4-10

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### **10-4-10. Annual license required; issuance by Commissioner; application for license or renewal.**

**(a)** No person shall operate a warehouse as defined under this article in this state unless he or she has a valid, effective license issued by the Commissioner pursuant to this article for such warehouse. All such licenses shall expire on June 30 of each year. No license so issued shall describe more than one warehouse nor grant permission to operate any warehouse other than the one described therein, except that, if a warehouseman operates two or more warehouses in the same county or in adjoining counties or operates two or more grain warehouses in nonadjoining counties in conjunction with each other and if but one set of books and records is kept with respect to weight certificates, scale tickets, inspection certificates, and receipts issued for agricultural products stored in all such warehouses, only one license shall be required for the operation of all such warehouses.

**(b)** The Commissioner is authorized to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this article and with such rules and regulations as may be made under this article, provided that each warehouse is found suitable for the proper storage of the particular agricultural product or products for which a license is to be issued and that such warehouseman agrees, as a condition to the granting of the license, to comply with all the terms of this article and the rules and regulations prescribed under this article. It shall be the duty of the Commissioner to issue a license to any responsible person applying therefor who can show that he is ready, willing, and able to meet the requirements of this article and the regulations under this article.

**(c)**

**(1)** Each applicant for a license or renewal shall furnish with his application a current financial statement which shall include:

- (A)** A balance sheet;
- (B)** A profit and loss statement of income;
- (C)** A statement of retained earnings; and
- (D)** A statement of changes in financial position.

**(2)** The chief executive officer for the business shall certify under penalties of perjury that the statements as prepared accurately reflect the financial condition of the business as of the date named and fairly represent the results of operations for the period named.

**(3)** Except as otherwise provided in this paragraph, each applicant shall have the financial statements required in paragraph (1) of this subsection audited by an independent certified public accountant. Alternatively, financial statements audited or reviewed by an independent public accountant will be accepted with the understanding that the applicant will be subject to an additional on-site examination by the Commissioner and to an audit by the Commissioner. Audits and reviews by independent certified public accountants and independent public accountants specified in this Code section shall be made in accordance with standards established by the American Institute of Certified Public

## O.C.G.A. § 10-4-10

Accountants. The accountant's certification, assurances, opinion, comments, and notes on such statements, if any, shall be furnished along with the statements. Applicants who cannot immediately meet these requirements may apply to the Commissioner for a temporary waiver of this provision. The Commissioner may grant such waiver for a temporary period not to exceed 180 days if the applicants can furnish evidence of good and substantial reasons therefor. This paragraph shall not be applicable to any applicant who maintains a bond in the maximum amount required by subsection (a) of Code Section 10-4-12.

## History

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 5; Ga. L. 1983, p. 946, § 2; Ga. L. 1984, p. 22, § 10; Ga. L. 1985, p. 645, § 1; Ga. L. 1988, p. 750, § 1; Ga. L. 1990, p. 340, § 1; Ga. L. 2001, p. 1070, § 2.

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## O.C.G.A. § 10-4-11

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### **10-4-11. License for person electing to comply with article and regulations.**

If not otherwise required by this article, any person operating a warehouse for the storage of agricultural products may elect to come within this article and, upon approval of the Commissioner, may be licensed under this article. As a condition to the granting of a license under this article, the applicant must agree to comply with this article and any and all regulations promulgated under this article, as well as any and all regulations issued by the Commissioner relating to the storage of agricultural products in the warehouse of the applicant.

### **History**

Ga. L. 1959, p. 246, § 5; Ga. L. 1977, p. 289, § 2.

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## O.C.G.A. § 10-4-12

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### **10-4-12. Bond required; additional bond.**

---

(a) Every person intending to engage in business as a warehouseman under this article shall, prior to commencing such business and periodically thereafter as the Commissioner shall require, execute and file with the Commissioner a good and sufficient bond to the state to secure the faithful performance of his or her obligation as a warehouseman under the terms of this article and the rules and regulations prescribed under this article, such bond to be computed in direct ratio to the licensed storage capacity of the warehouse bonded. The bond shall be executed by a surety corporation authorized to transact business in this state and approved by the Commissioner. Such bond shall be upon forms prescribed by the Commissioner. Any and all bond applications shall be accompanied by a certificate of “good standing” issued by the Commissioner of Insurance. If any company issuing a bond shall be removed from doing business in this state, it shall be the duty of the Commissioner of Insurance to notify the Commissioner of Agriculture within 30 days. The Commissioner shall have authority to fix the bond for any part of licensed storage capacity of the warehouse being used; but in no event shall the amount of the bond be required to exceed 15 percent of the value of the products stored and the bond shall be in such form and amount and shall have such surety or sureties, subject to service of process in actions on the bonds with this state, as the Commissioner may prescribe; provided, however, the minimum bond to be posted for each warehouse shall be \$20,000.00 and the maximum bond to be required for each warehouse shall be \$300,000.00.

(b) If a warehouseman is also a grain dealer, the amount of the required bond shall be the greater of the bond required by subsection (a) of this Code section or the bond required under Code Section 2-9-34 for grain dealers who are not licensed under this article.

(c) Whenever the Commissioner shall determine that a previously approved bond has for any cause become insufficient, the Commissioner may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this Code section. Unless the additional bond or bonds are given within the time fixed by a written demand therefor, or if the bond of the warehouseman is canceled, the license of such warehouseman shall be immediately revoked by operation of law without notice or hearing. Code Sections 10-4-6 and 10-4-7 shall apply to this as well as all other Code sections of this article.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 6; Ga. L. 1956, p. 688, § 1; Ga. L. 1977, p. 289, § 1; Ga. L. 1981, p. 929, § 1; Ga. L. 1983, p. 946, § 3; Ga. L. 1985, p. 645, § 2; Ga. L. 1999, p. 800, § 7; Ga. L. 2010, p. 9, § 1-28/HB 1055.

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## O.C.G.A. § 10-4-13

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-13. Bonded and licensed warehouse may be designated as state bonded.**

---

Upon the filing with and approval by the Commissioner of a bond, in compliance with this article, for the conduct of a warehouse under this article, such warehouse may be designated as state bonded under this article; but no warehouse shall be designated as a state bonded warehouse under this article and no name or description conveying the impression that it is so bonded shall be used unless a bond, as provided for in Code Section 10-4-12, has been filed with and approved by the Commissioner and unless a license issued under this article for the conduct of such warehouse is valid and effective.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 8.

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## O.C.G.A. § 10-4-14

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### 10-4-14. Actions on bonds.

---

(a) Any person claiming that he or she has been damaged by a breach of the conditions of a bond given by a licensee as provided in Code Section 10-4-12 may enter a complaint to the Commissioner. Such complaint shall be a written statement of the facts constituting the complaint and must be made within 180 days of the alleged breach. If the Commissioner determines that the complaint is prima facie a breach of the bond, and the matter can not be amicably resolved within 15 days, the Commissioner shall publish a solicitation for additional complaints regarding breaches of the bond for a period of not less than five consecutive issues in a newspaper of general circulation and in such other publications as the Commissioner shall prescribe. Additional complaints must be filed within 60 days following initial public notification of a breach of the bond. Civil actions on the breach of such bond shall not be commenced less than 120 days nor more than 547 days from the initial date of public notification of such breach of the bond.

(b) Upon the filing of the complaint in the manner provided in this Code section, the Commissioner shall investigate the charges made and, at his discretion, order a hearing before him or his hearing officer giving all parties concerned notice of the filing of such complaint and the time and place of such hearing. At the conclusion of the hearing, the Commissioner shall report his findings and render his conclusion concerning the complaint to the complainant and respondent in the case, who shall have 15 days following such report in which to make effective and satisfy the Commissioner's conclusions.

(c) If such settlement is not effected within such time, the Commissioner or the claimant may institute appropriate legal proceedings to enforce the claim. If the claimant is not satisfied with the ruling of the Commissioner, he may commence and maintain an action against the principal and surety on the bond of the parties against whom the complaint is registered, as in any civil action.

(d) If the bond or collateral posted is insufficient to pay the valid claims of claimants in full, the Commissioner may direct that the proceeds of the bond shall be divided pro rata among the claimants.

### History

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 7; Ga. L. 1985, p. 645, § 3; Ga. L. 1998, p. 556, § 3.

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## O.C.G.A. § 10-4-15

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-15. Inspections of warehouses.**

---

In addition to the general powers conferred by Code Section 10-4-5, the Commissioner and his or her duly authorized agents or employees shall have full power and authority to inspect public warehouses operated under this article, to inventory, and to check the agricultural products stored so as to ascertain the conditions of such products and to determine whether or not the business is conducted in such a manner as to protect the interest of persons who are storing or may store such products. The inspectors shall make sworn reports of their findings to the Commissioner, who shall hold and keep such reports in the records of his or her office. Such inspections shall be made as often as deemed necessary by the Commissioner, but not less than twice during any license period and, in addition, as often as requested by the warehouseman.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 9; Ga. L. 2011, p. 99, § 16/HB 24.

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## O.C.G.A. § 10-4-16

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-16. Inspectors and examiners to be bonded.**

---

Each inspector and examiner employed by the Commissioner for the inspection and examination of warehouses licensed under this article shall be bonded in an amount not less than \$5,000.00, or in such greater amount as the Commissioner deems necessary, for the faithful performance of his duties and for the proper accounting of all funds coming into his hands. The cost of the bond shall be paid by the Department of Agriculture.

### **History**

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Ga. L. 1959, p. 246, § 2.

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## O.C.G.A. § 10-4-17

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### **10-4-17. License fees.**

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Warehousemen coming under this article shall pay an annual license fee which includes all inspections in an amount based on storage capacity in an amount fixed by rule or regulation of the Commissioner. These fees shall not exceed actual cost of inspections and are inclusive. The amount paid shall be based on storage capacity and shall be at least \$600.00 and no more than \$2,500.00 for grain or cotton warehouses and \$600.00 to \$2,500.00 for other agricultural products facilities desiring to come under this article. Each license so issued shall expire on June 30 of each year, and each application for license must be accompanied by the license fee. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 10; Ga. L. 1955, p. 261, § 1; Ga. L. 1992, p. 2553, § 1; Ga. L. 2001, p. 1070, § 3; Ga. L. 2010, p. 9, § 1-29/HB 1055.

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## O.C.G.A. § 10-4-18

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-18. Delivery to warehouse presumably for storage.**

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Any agricultural product delivered to a warehouse under this article shall be presumed to be delivered for storage.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 11.

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## O.C.G.A. § 10-4-19

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-19. Warehouse receipts required; obtaining printed forms; use of electronic receipts authorized.**

---

**(a)** Unless otherwise required by law or by rule or regulation, an original receipt shall be issued for cotton and, at the option of the warehouseman or depositor, for any other agricultural products owned or stored by the warehouseman under this article. No receipt shall be issued, however, unless such products are actually stored in the warehouse at the time of the issuance of the receipt. The receipted agricultural product will remain the property of the depositor until it is transferred or sold by him or her. Initial receipts for cotton shall be issued in the name of the producer. Transfers or sales from the cotton producer shall be endorsed by his or her signature on forms authorized by the Commissioner.

**(b)** To regulate receipts issued by warehousemen licensed under this article, receipts issued by such warehousemen shall be obtained by warehousemen from approved printers and delivered through the Department of Agriculture at the expense of the warehousemen. Orders of the warehousemen for receipts from printers approved by the Commissioner shall be forwarded to the Department of Agriculture for approval as to the form and source of supply of the receipts. To regulate further the receipts issued under this article, the printer shall transmit all receipts printed for a warehouseman to the Department of Agriculture, so as to enable the Commissioner to maintain an accurate record of the numbers of such receipts and the quantity delivered. It shall be a violation of this article for any warehouseman to issue any warehouse receipt except upon receipts obtained as provided in this Code section. It shall be unlawful for any printer to print any warehouse receipt for any warehouseman licensed under this article without the approval of the Commissioner.

**(c)** The Commissioner is authorized to permit the use of warehouse receipts obtained prior to March 17, 1959, upon receipt by the Commissioner of proof satisfactory to the Commissioner of the quantities and sources of such receipts held by the warehouseman.

**(d)** The Commissioner is authorized to accept as full compliance with this Code section the submission of a sample of the receipts to be printed and a copy of the invoice covering the shipment of such receipts that shows the quantity and quality of the receipts printed for the warehousemen.

**(e)** The Commissioner is authorized to permit the use of electronic warehouse receipts and to accept as full compliance with this Code section electronic warehouse receipts obtained by warehousemen from insured electronic warehouse receipt providers approved by and under an operational agreement with the Department of Agriculture. A computer printout issued on behalf of a state licensed warehouse by an approved electronic warehouse receipt provider shall be sufficient to comply with this article if such printout is sufficient to meet existing requirements of the electronic warehouse receipt program administered by the United States Department of Agriculture.

### **History**

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O.C.G.A. § 10-4-19

Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 12; Ga. L. 1955, p. 261, § 2; Ga. L. 1959, p. 246, § 3; Ga. L. 1981, p. 656, § 1; Ga. L. 1996, p. 1200, § 1; Ga. L. 1997, p. 143, § 10; Ga. L. 1998, p. 1384, § 1; Ga. L. 2000, p. 136, § 10; Ga. L. 2007, p. 462, § 1/SB 220.

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## O.C.G.A. § 10-4-20

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)**

### **10-4-20. Essential terms of warehouse receipts; liability for omission.**

---

- (a) Warehouse receipts need not be in any particular form, but every such receipt must embody within its written or printed terms:
- (1) The location of the warehouse where the goods are stored;
  - (2) The date of issue of the receipt;
  - (3) The consecutive number of the receipt;
  - (4) A statement whether the goods received will be delivered to the bearer, to a specified person, or to a specified person or his order;
  - (5) The rate of storage charges;
  - (6) A description of the goods or of the packages containing them;
  - (7) The signature of the warehouseman, which may be made by his authorized agent;
  - (8) If the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership;
  - (9) A statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien. If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof is sufficient; and
  - (10) The amount and rate of insurance on the goods, provided that, if there is no insurance thereon by reason of an agreement with the depositor, the receipt shall be so stamped.
- (b) A warehouseman shall be liable to any person injured thereby for all damage caused by the omission from a negotiable receipt of any of the terms required by this Code section.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 13.

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## O.C.G.A. § 10-4-21

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-21. Obligation of warehouseman to deliver; effect of loss or damage.**

---

Every warehouseman conducting a warehouse under this article shall, without unnecessary delay, deliver the agricultural product as described on each warehouse receipt issued by him upon a demand made by the holder of a receipt for such agricultural product if the demand be accompanied by:

- (1) An offer to satisfy the warehouseman's lien;
- (2) An offer to surrender the receipt and, if negotiable, with such endorsements as would be necessary for the negotiation of the receipt; and
- (3) An offer to sign, when the product is delivered, an acknowledgment that it has been delivered if such signature is requested by the warehouseman;

provided, however, that where an agricultural product is stored identity preserved, the actual agricultural product shall be delivered; provided, further, that no warehouseman shall be deemed to have violated this Code section by failure to deliver any agricultural product in accordance with its provisions, if such failure is due to loss or damage of the product from a hazard against which insurance is not required under Code Section 10-4-25 and the regulations issued by the Commissioner pursuant thereto and where such loss or damage does not result from a failure of such warehouseman to exercise that degree of care which an ordinarily prudent person would exercise in the care and protection of his own property; and, provided, further, that in case of an insured loss such demand may be satisfied by payment of the market value of the product lost or damaged.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 15; Ga. L. 1982, p. 3, § 10.

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## O.C.G.A. § 10-4-22

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-22. Surrender and cancellation of warehouse receipts on delivery.**

Except as provided in Code Section 11-7-601, no warehouseman conducting a warehouse under this article shall deliver any agricultural product for which a warehouse receipt has been issued by him unless the receipt has been first surrendered to him. Immediately upon delivery by him of the agricultural product, he shall cancel upon the face thereof such receipt surrendered to him.

### **History**

Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 16.

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## O.C.G.A. § 10-4-23

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-23. Records of warehousemen.**

---

Every warehouseman conducting a warehouse under this article shall keep for inspection for such period as the Commissioner may prescribe, in a place of safety, complete and correct records of all agricultural products received at the warehouse for storage or delivered therefrom, including a separate account of all such agricultural products owned by the warehouseman, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 17.

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## O.C.G.A. § 10-4-24

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-24. Inspection of records; preservation of records when license terminated.**

---

The Commissioner is authorized through officials, employees, or agents designated by him to inspect all receipt records and inventory records of warehouses under this article. In the event of suspension, revocation, or other termination of a license issued under this article, the former licensee or his successor in interest, if any, shall preserve, for such period of time as may be prescribed by the Commissioner, all such books, papers, accounts, and other records relating to the operation of the warehouse during the effective period of the license; and such books, papers, accounts, and other records shall be subject to inspection by the Commissioner or his agents, during such period of time as the Commissioner may prescribe.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 19.

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## O.C.G.A. § 10-4-25

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-25. When insurance on stored products required.**

---

All agricultural products stored for the producer in their raw or natural state, and cotton in any form stored for the producer, in storage in a warehouse under this article or deposited temporarily in such a warehouse pending storage shall be kept insured at full market value by the warehouseman against loss or damage by fire, lightning, and extended coverage, except that cotton shall be insured against loss or damage by fire and lightning only. Such insurance shall be carried in an insurance company or companies of the warehouseman's choice authorized to do business in this state, and evidence of such insurance coverage in form to be approved by the Commissioner of Insurance shall be filed with the Commissioner of Agriculture. Such insurance shall be provided by, and carried in the name of, the warehouseman; provided, however, that a producer depositing or storing agricultural products who does not wish to have his products insured by the warehouseman may relieve the warehouseman of that duty by notifying the warehouseman in writing that he does not wish his agricultural products insured.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 20; Ga. L. 1989, p. 14, § 10.

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## O.C.G.A. § 10-4-26

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-26. Schedules of charges to be filed; changes in charges; special rates for United States; duplication of charges prohibited.**

---

(a) Prior to transaction of any warehouse business at any warehouse under this article and annually thereafter, the warehouseman shall file with the Commissioner a schedule of charges to be made by the warehouse. All charges and regulations affecting such charges made by any warehouse licensed under this article for the storage of agricultural products shall be just, fair, and reasonable. No additional charge shall be made by any such warehouse other than as specified in its filed schedule. No change shall be made in a filed schedule of charges during a current year unless the Commissioner consents thereto. Any upward revision of charges of any such warehouse during any current year shall be applicable only to products received at such warehouse or services performed pursuant to instructions received from the storer after the Commissioner's approval of the upward revisions.

(b) Notwithstanding the provisions of subsection (a) of this Code section, any warehouseman under this article may establish and charge special rates as required by contract with the United States, or any agency of or corporation controlled by the United States, and none of the restrictions or requirements of subsection (a) of this Code section shall apply to such rates.

(c) No warehouseman shall make any charge for any service unless he has then on file a schedule of charges to be made by the warehouse for that service.

(d) No warehouseman shall make a duplicate collection of tariff charges for the first month's service of the warehouseman. It is the intent and purpose of this Code section to prevent a duplication of the collection of such charges in any manner or fashion.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 21; Ga. L. 1959, p. 246, § 4.

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## O.C.G.A. § 10-4-27

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-27. Certified public weighers to be provided.**

---

All warehouses licensed under this article shall provide not less than one certified public weigher for each warehouse in accordance with Code Sections 10-2-40 through 10-2-54.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 22.

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## O.C.G.A. § 10-4-28

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-28. Scales to be provided; examination; disapproved scales not to be used.**

---

Each warehouse under this article must be equipped with suitable scales in good order and so arranged that all agricultural products for storage can be weighed by the warehouseman. The scales in any such warehouse shall be subject to examination by representatives of the Commissioner and to disapproval by the Commissioner. If the Commissioner disapproves any weighing apparatus, it shall not thereafter be used in ascertaining the weight of agricultural products for the purposes of this article until such disapproval shall be withdrawn.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 23.

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## O.C.G.A. § 10-4-29

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-29. Suspension of license pending investigation or correction of violation; impoundment of records and commodities.**

---

At such time as the Commissioner or supervisor deems there has been a violation of the law and the rules and regulations, he shall have the power and authority, in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," to suspend the license of the warehouseman pending the investigation of the violation or until at such time the violation has been corrected to the satisfaction of the Commissioner or supervisor, and during the period of time of any investigation of a violation the Commissioner or supervisor shall have the power and authority to impound all books and records and withhold all commodities from moving until the investigation is completed.

### **History**

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Ga. L. 1956, p. 688, § 3.

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## O.C.G.A. § 10-4-30

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-30. Suspension or revocation of license for violation; liquidation proceedings; impoundment of unused receipts.**

---

- (a) The Commissioner, in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” may suspend or revoke any license issued to any warehouseman to conduct a public warehouse under this article for any violation of or failure to comply with any provisions of this article or the rules and regulations made under this article.
- (b) In the event the Commissioner after a hearing finds and determines that a public warehouse is being operated in violation of the laws and regulations and in jeopardy of the public interest, he, in addition to revoking the license to operate such public warehouse, may, in his discretion, file a petition for receivership and liquidation in the superior court of the county in which the warehouse is located.
- (c) When any license has been suspended or revoked, the Commissioner or his authorized agents shall have the power and authority to take possession of all unused state bonded receipts and impound them until such time that said license has been reinstated.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 28; Ga. L. 1956, p. 688, § 4.

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## O.C.G.A. § 10-4-31

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-31. Publishing lists of licensed and bonded warehouses, license terminations, and findings as to violations.**

---

The Commissioner may publish in print or electronically the names and locations of warehouses licensed and bonded, the names and addresses of persons licensed under this article, and lists of all licenses terminated under this article and the causes therefor. Whenever it is found, under this article, that such warehouseman is not performing the duties imposed on him by this article and the rules and regulations made under this article, the Commissioner may publish in print or electronically his findings.

### **History**

---

Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 18; Ga. L. 1956, p. 688, § 2; Ga. L. 2010, p. 838, § 10/SB 388.

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## O.C.G.A. § 10-4-32

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-32. Criminal penalties for violations; immunity of sureties.**

---

- (a) Every person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a warehouse under this article, contrary to this article or the regulations promulgated under this article, any agricultural product received at such warehouse for storage; or who shall forge, alter, counterfeit, simulate, or falsely misrepresent, or without proper authority use any license issued by the Commissioner under this article; or who shall issue or utter a false or fraudulent receipt or certificate of weight or grade or other class for any agricultural product under this article; or change with fraudulent intent in any manner an original receipt or such a certificate subsequent to issuance, shall be guilty of a felony and shall be fined not less than \$2,000.00 nor more than \$20,000.00 or double the value of the products involved if such double value exceeds \$20,000.00, or imprisoned for not less than two years nor more than ten years, or both.
- (b) Every person who shall fraudulently alter or falsely represent a sample drawn under this article; or who shall fraudulently grade, otherwise classify, or weigh, or draw with intent to deceive a false sample of any agricultural product received at any warehouse under this article for storage; or who otherwise shall violate any provision of this article or of the regulations promulgated under this article, shall be guilty of a misdemeanor.
- (c) For the purposes of this Code section the bondsman bonding such person or warehouseman shall not be liable for the criminal penalties provided in this Code section.

### **History**

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Ga. L. 1953, Nov.-Dec. Sess., p. 412, § 24.

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## O.C.G.A. § 10-4-33

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 1 State Licensed and Bonded Warehouses (§§ 10-4-1 — 10-4-33)***

### **10-4-33. Duty of persons accepting warehouse receipts to take adequate measures regarding goods.**

---

This article shall not relieve any person, including, but not limited to, any bank, savings and loan, or other financial lending institution, that requires, solicits, or otherwise accepts warehouse receipts issued in accordance with this article as collateral or security for a debt, account, promissory note, or any type of loan from any duty otherwise imposed to take necessary and reasonable adequate measures to ensure that the goods represented by the warehouse receipts are present and accounted for and are in suitable condition.

### **History**

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Code 1981, § 10-4-33, enacted by Ga. L. 1992, p. 2553, § 2.

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## O.C.G.A. § 10-4-50

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)***

### **10-4-50. Designation of commissioner.**

---

The Commissioner of Agriculture shall be the state warehouse commissioner.

### **History**

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Ga. L. 1918, p. 246, § 1; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-301.

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## O.C.G.A. § 10-4-51

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)***

### **10-4-51. Bond of commissioner.**

---

The state warehouse commissioner shall give bond payable to the Governor and his successors in office for the faithful performance of his duties, in the sum of \$25,000.00, such bond to be approved as other bonds of state officers.

### **History**

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Ga. L. 1918, p. 246, § 14; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-302.

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## O.C.G.A. § 10-4-52

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)***

### **10-4-52. Appointment and bonding of necessary employees; promulgation of rules and regulations.**

---

(a) The commissioner shall have the power to appoint graders, officers, clerks, and all necessary employees to carry out this article and fix the salaries of same. He shall also have the power, and is directed, to safeguard the interests of the state by requiring bonds from such officers, clerks, and employees for the performance of their duties.

(b) The commissioner shall also prescribe rules and regulations not inconsistent with the intent and spirit of this article to carry the same into effect.

### **History**

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Ga. L. 1918, p. 246, § 5; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-303.

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### **10-4-53. Actions by and against commissioner; limitations on liability; “linters” not to be stored.**

---

- (a) The commissioner shall have power to sue and be sued, plead and be impleaded, upon the same terms as an individual or corporation, the action to be against or by the commissioner, and not as an individual, except in case of tort or neglect of duty, when the action may be upon the bond of the commissioner. Actions may be brought in Fulton County or in the county in which the cause of action shall arise.
- (b) The weights, classes, and grades of cotton on storage are, under this article, only guaranteed by the commissioner in favor of those who lend money or buy cotton through the commissioner, provided the commissioner shall not be responsible for such fluctuation in weight as represents ordinary climatic conditions.
- (c) Cotton designated as “linters” shall not be received for storage under this article.

### **History**

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Ga. L. 1918, p. 246, § 6; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-305; Ga. L. 1982, p. 3, § 10.

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## O.C.G.A. § 10-4-54

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)***

### **10-4-54. Duties of commissioner generally.**

---

It shall be the duty of the commissioner to study the condition under which cotton is grown, harvested, ginned, baled, covered, stored, and marketed and as a result of such investigation to organize a system that will bring about needed reforms and provide for the most economical and scientific handling of this crop from the fields to the mill and, when he shall have determined upon the best system of ginning, baling, and covering, to recommend its adoption by all ginners as fast as practicable, without undue expense.

### **History**

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Ga. L. 1918, p. 246, § 2; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-307.

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## O.C.G.A. § 10-4-55

Current through the 2022 Regular Session of the General Assembly.

*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)*

### **10-4-55. Acquisition of property; encouraging erection of warehouses.**

---

The commissioner shall have power to acquire property. It shall be his duty to foster and encourage the erection of warehouses in the various counties, upon plans and specifications adopted by him.

### **History**

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Ga. L. 1918, p. 246, § 4; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-306.

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## O.C.G.A. § 10-4-56

Current through the 2022 Regular Session of the General Assembly.

*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)*

### **10-4-56. Purchase or lease of, or contracting for, compress plant by commissioner.**

---

The commissioner shall have the right to erect, buy, lease, or otherwise contract for a compress plant, or make contract or contracts with existing compress owners for the compression of cotton, as may be necessary in the conduct of the business under this article.

### **History**

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Ga. L. 1918, p. 246, § 11; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-309.

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## O.C.G.A. § 10-4-57

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)***

### **10-4-57. Fire insurance on property owned by or in possession of commissioner.**

---

The commissioner shall insure against fire all buildings, machinery, or other property owned by the commissioner in the name of the state. The commissioner shall have insured all buildings or machinery leased, owned, or in his possession other than the state's property when requested to do so by the owners thereof. Further, he shall effect fire insurance on cotton that may be insured in such warehouses when so requested by the owner or owners thereof in the name of the owner. All insurance obtained by the commissioner under this Code section shall be placed in fire insurance companies authorized by law to do business in this state, provided that the commissioner shall not act in any capacity for any insurance company or receive any compensation from any insurance company, insurance agent, broker, or any person representing any insurance company as aforesaid, by division of commission or otherwise, in connection with the placing of any insurance.

### **History**

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Ga. L. 1918, p. 246, § 23; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-317.

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## O.C.G.A. § 10-4-58

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)***

### **10-4-58. Annual report.**

---

- (a) The state warehouse commissioner shall make an annual report to the General Assembly, setting forth:
- (1) Number and location of each warehouse where cotton has been received for storage by the state;
  - (2) Cotton on storage and that delivered on presentation of receipts; and
  - (3) Such further information as the commissioner may think would be of benefit to the public.
- (b) The state warehouse commissioner shall not be required to distribute copies of the annual report to the members of the General Assembly but shall notify the members of the availability of the annual report in the manner which he or she deems to be most effective and efficient.

### **History**

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Ga. L. 1918, p. 246, § 13; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-318; Ga. L. 2005, p. 1036, § 2/SB 49.

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## O.C.G.A. § 10-4-59

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)***

### **10-4-59. Cooperation with other states.**

---

The commissioner shall cooperate with other states where a state warehouse system is in operation and promote the formation of an interstate board so that there may be uniformity in handling and marketing the crop in all the states; and the commissioner is authorized to spend such sums as may be necessary for this purpose.

### **History**

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Ga. L. 1918, p. 246, § 21; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-320.

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## O.C.G.A. § 10-4-60

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 1 State Warehouse Commissioner (§§ 10-4-50 — 10-4-60)***

### **10-4-60. State debt not to be created.**

---

No debt shall be created against the state by reason or operation of this article.

### **History**

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Ga. L. 1918, p. 246, § 22; Code 1933, § 5-319.

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## **O.C.G.A. Title 10, Ch. 4, Art. 2, Pt. 2**

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 2 Storage of Cotton (§§ 10-4-70 — 10-4-81)***

### **PART 2 Storage of Cotton**

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## O.C.G.A. § 10-4-70

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 2 Storage of Cotton (§§ 10-4-70 — 10-4-81)***

### **10-4-70. Standards and classifications of cotton.**

---

The state warehouse commissioner shall accept as authoritative the standards and classifications of cotton established by the federal government.

### **History**

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Ga. L. 1918, p. 246, § 3; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-308.

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## O.C.G.A. § 10-4-71

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 2 Storage of Cotton (§§ 10-4-70 — 10-4-81)***

### **10-4-71. Storing lint cotton; inspection tags; issuance, contents, transfer, and cancellation of receipts.**

---

- (a) The state warehouse commissioner may receive for storage lint cotton, properly baled, with an inspection tag showing that it has been legally weighed and that a federal or state grader has graded such cotton.
- (b) There shall be receipts issued for such cotton under the seal in the name of the commissioner, stating location of warehouse, identification mark on each bale, its weight and grade, and whether long or short staple, so as to be able to deliver on surrender of receipts the identical cotton for which each was given. The receipt for cotton so stored is transferable only by written assignment and actual delivery. The cotton which the receipt represents shall be delivered only upon physical presentation of the receipt or satisfactory proof of loss of the receipt. The receipt shall be marked “canceled” when the cotton is taken from the warehouse.
- (c) The grades, weights, and identification marks provided for by this article shall be evidenced by tags affixed to the bale of cotton; and the receipts issued must be a duplicate of the identification upon the tags.

### **History**

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Ga. L. 1918, p. 246, §§ 7, 8; Ga. L. 1920, p. 282, § 1; Code 1933, §§ 5-310, 5-311.

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## O.C.G.A. § 10-4-72

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### **10-4-72. Fixing terms and rate of storage.**

---

The state warehouse commissioner shall settle the terms upon which cotton may be stored in the local warehouses coming under this article and fix the rate of storage thereon in such manner that these warehouses shall pay expenses, it being the declared purpose of this article that the system shall be self-sustaining and without cost to the state.

### **History**

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Ga. L. 1918, p. 246, § 9; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-312.

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## O.C.G.A. § 10-4-73

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### **10-4-73. Commissioner may negotiate loans on receipts and sale of stored cotton.**

---

The state warehouse commissioner may, upon the request of the owner of warehouse receipts, negotiate loans upon the same, or make sale of the cotton on storage, and shall notify the holders of cotton of the steps which will be necessary to avail themselves of aid in obtaining loans upon cotton or making sale thereof.

### **History**

---

Ga. L. 1918, p. 246, § 10; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-313.

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## O.C.G.A. § 10-4-74

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### **10-4-74. Commissioner's charges and commissions.**

---

The state warehouse commissioner shall provide for the cost of maintaining this system by assessing a charge upon each bale of cotton offered for storage, and for negotiation of loans or selling cotton, a commission, all of which charges shall be uniform, and due notice thereof given, it being the declared purpose of this article to operate at cost, without profit to the state.

### **History**

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Ga. L. 1918, p. 246, § 12; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-314.

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## O.C.G.A. § 10-4-75

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 2 Storage of Cotton (§§ 10-4-70 — 10-4-81)***

### **10-4-75. Warehouse receipt books; execution and sealing of receipts.**

---

The warehouse receipt books shall be designed by the state warehouse commissioner and furnished the manager of each warehouse. Receipts shall be numbered, and the warehouse receiving such books shall be accountable for each receipt. The receipts in such books may have the lithographed or engraved signature of the state warehouse commissioner, but the name of the manager of the local warehouse shall be signed by the manager with pen and ink. The state warehouse commissioner shall have a seal, which shall be affixed to each receipt.

### **History**

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Ga. L. 1918, p. 246, § 15; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-315.

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## O.C.G.A. § 10-4-76

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 2 Storage of Cotton (§§ 10-4-70 — 10-4-81)***

### **10-4-76. Investigation of liens and titles by warehouseman; priority of claim of receipt holder.**

---

(a) If the warehouseman to whom cotton is offered for storage shall have cause to believe there is an adverse lien, title, or claim to the cotton, he shall make reasonable investigation; and to that end he may require the party so offering the cotton for storage to make affidavit in writing as to such liens, adverse title, or claims.

(b) Any transferee or holder for value of any receipt issued under this article, without notice of any adverse lien, title, or claim to the cotton represented by such receipt, shall have a superior claim to the cotton as against such adverse lien, title, or claim, unless the holder of the adverse lien, title, or claim within seven days after the date on which the cotton was so stored in such warehouse shall begin action on such lien, title, or adverse claim in a court of competent jurisdiction, and give to the warehouse where the cotton is stored written notice of such action.

### **History**

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Ga. L. 1918, p. 246, § 20; Code 1933, § 5-316.

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## O.C.G.A. § 10-4-77

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 2 Storage of Cotton (§§ 10-4-70 — 10-4-81)***

### **10-4-77. Penalty for failure to give notice of lien on cotton.**

---

Any person who shall deposit, or attempt to deposit, cotton upon which a lien, mortgage, or adverse claim exists, without notifying the manager of the warehouse thereof and having this fact so entered on the warehouse receipt, shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1918, p. 246, § 19; Code 1933, § 5-9905.

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## O.C.G.A. § 10-4-78

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### **10-4-78. Penalty for false affidavit as to lien on cotton.**

---

Should any party required by Code Section 10-4-76 to make an affidavit as to an adverse lien, title, or claim to cotton offered to a warehouseman for storage make a false affidavit, he shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment and labor in the penitentiary for not less than three years nor more than ten years.

### **History**

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Ga. L. 1918, p. 246, § 20; Code 1933, § 5-9906.

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## O.C.G.A. § 10-4-79

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### **10-4-79. Penalties for delivering cotton without production of receipt or failing to cancel receipt.**

---

Any manager, employee, agent, officer, or other person who shall deliver cotton from a warehouse under this article, except upon the production of the receipt therefor, or who shall fail to mark such receipt “canceled” on the delivery of the cotton shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than \$5,000.00, or imprisonment for not more than five years in the state penitentiary, or both, in the discretion of the court.

### **History**

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Ga. L. 1918, p. 246, § 18; Code 1933, § 5-9902.

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## O.C.G.A. § 10-4-80

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 2 State Warehouse Commissioner; Cotton Warehousing (Pts. 1 — 2) > PART 2 Storage of Cotton (§§ 10-4-70 — 10-4-81)***

### **10-4-80. Penalties for issuing receipt for cotton not in warehouse.**

---

The manager of any warehouse, or agent, employee, or servant, who issues or aids in issuing a receipt for cotton, knowing that such cotton has not been actually placed in the warehouse under the control of the manager thereof, shall be guilty of a felony and, upon conviction thereof, shall be punished for each offense by imprisonment in the state penitentiary for a period of not less than one nor more than five years, or by a fine not exceeding \$5,000.00.

### **History**

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Ga. L. 1918, p. 246, § 16; Code 1933, § 5-9903.

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## O.C.G.A. § 10-4-81

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### **10-4-81. Penalty for issuing duplicate or additional receipt; lost or destroyed receipts.**

---

Any manager, employee, servant, or other person who shall issue or aid in issuing a duplicate or additional receipt for cotton, knowing that the former receipt or any part thereof is outstanding, commits the offense of forgery in the first degree, provided that the party applying for a duplicate, upon the representation that the original has been lost or destroyed, may receive the same upon giving an indemnifying bond to the state warehouse commissioner to protect the commissioner against any loss that might occur thereby.

### **History**

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Ga. L. 1918, p. 246, § 17; Ga. L. 1920, p. 282, § 1; Code 1933, § 5-9904.

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## **O.C.G.A. Title 10, Ch. 4, Art. 3**

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3)***

### **Article 3 Tobacco Warehousing**

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## O.C.G.A. § 10-4-100

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-100. Legislative intent and findings.**

---

It is the intent and purpose of this part to enable producers to have sufficient time to cure, prepare, and market their flue-cured leaf tobacco in a proper and orderly manner. It is found by the General Assembly that the provisions of this part are necessary to the proper marketing of flue-cured leaf tobacco.

It is further found that external disruptive forces and influences upon buyers and sales opportunity have operated to effect discrimination and disadvantage upon flue-cured leaf tobacco producers in this state in the free entry and sale of their tobacco in interstate commerce. It is the intent and purpose of this part to eliminate discrimination in the entry and sale of tobacco in commerce by providing for equitable allocation of sales opportunity and by providing for licensing of flue-cured leaf tobacco auction sales which will optimize the movement and sale in commerce of tobacco produced in this state and eliminate discrimination against such movement and sale.

### **History**

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Ga. L. 1960, p. 214, § 1; Ga. L. 1968, p. 1242, § 1; Ga. L. 1974, p. 518, § 1.

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# O.C.G.A. § 10-4-101

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*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)*

## **10-4-101. Licenses for flue-cured leaf tobacco auction sales; “clean-up” sale licenses.**

---

No person, real or corporate, shall operate, hold, or conduct an auction sale for the sale of flue-cured leaf tobacco within this state without first having obtained a license for the regular selling season in which the sale is made from the Commissioner of Agriculture. Each license so issued shall automatically expire at the end of the regular selling season. The regular selling season shall be deemed to have ended at the close of business on the marketing day any regulatory group or committee shall cause any of the sets of buyers normally assigned to the Georgia flue-cured leaf tobacco auction markets to be withdrawn for the purpose of reassigning them to auction markets in other tobacco belts. The Commissioner, in his or her discretion, may issue additional licenses to warehousemen at the end of the regular selling season as he or she deems necessary and desirable for “clean-up” sales or special sales, such licenses to terminate at the conclusion of the “clean-up” or special sale. The license fee shall be \$150.00 for each regular selling season with no additional fee for licenses issued for “clean-up” or special sales. Licenses shall be subject to renewal from one regular selling season to another under such rules and regulations as the Commissioner shall prescribe. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

## **History**

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Ga. L. 1960, p. 214, § 2; Ga. L. 1968, p. 1242, § 2; Ga. L. 1970, p. 4, § 1; Ga. L. 1992, p. 1023, § 1; Ga. L. 2010, p. 9, § 1-30/HB 1055.

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## O.C.G.A. § 10-4-102

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-102. Physical standards for leaf tobacco warehouses; compliance as prerequisite for license.**

---

In addition to other authority granted him by this part, the Commissioner of Agriculture shall be authorized to promulgate regulations prescribing physical standards for buildings used as warehouses for the storage or sale of leaf tobacco. Such standards shall be reasonably designed to ensure the protection of producers and others from loss or damage to tobacco while held or stored in such warehouses and to provide for the safety and welfare of such persons while upon the warehouse premises. It shall be a prerequisite to the issuance of a license under this part that the applicant has complied with all standards promulgated pursuant to this Code section.

### **History**

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Ga. L. 1972, p. 351, § 1; Ga. L. 1994, p. 97, § 10.

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## O.C.G.A. § 10-4-103

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-103. Insurance as prerequisite for license.**

---

As a prerequisite to the issuance of a license under this part, each applicant shall furnish evidence to the Commissioner of Agriculture that he has in force a standard fire and extended coverage insurance policy for the full market value of the tobacco in his sales warehouse for the marketing season for which the license is sought. The insurance policy shall be written by an insurance company, of the warehouseman's choice, authorized to transact business in this state, and such insurance coverage shall be approved in form by the Commissioner of Insurance, and a copy of the insurance policy shall be filed with the Commissioner of Agriculture. The policy shall cover both first-hand and resale tobacco. The insurance policy shall contain an endorsement requiring notification to the Commissioner of Agriculture by the insurance company of its intention to cancel the policy at least ten days prior to cancellation.

### **History**

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Ga. L. 1960, p. 214, § 3; Ga. L. 1970, p. 222, § 1; Ga. L. 1989, p. 14, § 10.

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## O.C.G.A. § 10-4-104

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-104. Allocating sales opportunities among licensed warehouses.**

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In the event sales opportunity shall be designated or allocated to this state by any regulatory group or committee, the Commissioner of Agriculture shall be authorized to allocate such sales opportunity among the warehouses operating under license issued under this part in such manner as to effectuate the expressed intent and purpose of this part. The Commissioner may consider, among other factors, the history factor used by the regulatory group or committee for assigning sales opportunity for cross-belt tobacco, the previous five-year sales history of such licensees, and the previous five-year sales history of such licensees of selling Georgia grown tobacco in order to effectuate an allocation which will eliminate or reduce discrimination against producers in this state in the entry and sale of their tobacco in commerce. In recognition of the unique characteristics of the marketing of tobacco by auction, and the necessity of immediate response to marketing conditions, such allocation of sales time need not be effected by the promulgation of regulations but may be issued and published in such manner as the Commissioner deems necessary and expedient, provided that no such allocation shall be effective upon less than 24 hours' actual notice to the affected licensee.

### **History**

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Ga. L. 1974, p. 518, § 3.

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## O.C.G.A. § 10-4-105

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-105. Denial of issuance or suspension or revocation of license.**

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In addition to other authority granted him by this part, the Commissioner of Agriculture shall be authorized to deny issuance of, or to suspend or revoke, any license provided in this part for any violation of this part, or upon a finding that the applicant or licensee has engaged in conduct contrary to the expressed intent and purpose of this part with respect to discrimination in the sale of tobacco. In the determination of discrimination in the sale of tobacco, the Commissioner is authorized to consider, among other factors, the solicitation of tobacco for auction by an applicant or licensee in such manner as to deplete unreasonably sales opportunity required for the equitable movement and sale of tobacco produced in this state.

### **History**

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Ga. L. 1974, p. 518, § 2.

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## O.C.G.A. § 10-4-106

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-106. Georgia Tobacco Marketing Act of 1995.**

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- (a) This Code section shall be known and may be cited as “The Georgia Tobacco Marketing Act of 1995.”
- (b) The maximum charges and expenses of handling and selling leaf tobacco by warehousemen licensed under this part shall not exceed the following schedule, to wit:
  - (1) Reserved;
  - (2) Reserved;
  - (3) For commissions on the gross sales of leaf tobacco in said warehouses, not to exceed 3.5 percent of said gross sales.

### **History**

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Ga. L. 1960, p. 214, § 4; Ga. L. 1990, p. 137, § 1; Ga. L. 1995, p. 104, § 1.

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## O.C.G.A. § 10-4-107

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-107. Warehousemen to render itemized statements.**

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The licensee of each and every warehouse shall render to each seller of tobacco of his warehouse an itemized statement plainly stating the amount charged for weighing and handling, the amounts charged for auction fees, and the amounts charged for commission on each sale.

### **History**

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Ga. L. 1960, p. 214, § 5.

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## O.C.G.A. § 10-4-107.1

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)**

### 10-4-107.1. Tobacco contract.

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- (a) As used in this Code section, the term “tobacco contract” means any contract between a tobacco company and a tobacco grower under which the tobacco company contracts to purchase tobacco to be grown by the tobacco grower other than at a tobacco auction.
- (b) No tobacco contract for the purchase of tobacco grown in this state shall be valid or binding unless:
- (1) The tobacco grower is given the opportunity to have the proposed tobacco contract reviewed outside the business premises of the tobacco company or its agents by an attorney or adviser of the tobacco grower’s choosing prior to execution;
  - (2) The tobacco contract is written in plain English; and
  - (3) The tobacco contract quotes the provisions of subsection (c) of this Code section.
- (c)
- (1) The tobacco grower shall have a right to cancel a tobacco contract until 12:00 Midnight of the third business day after the day on which the tobacco grower signs the contract.
  - (2) Notice of cancellation under this subsection shall be given to the tobacco company at the place of business as set forth in the tobacco contract by certified mail or statutory overnight delivery, return receipt requested, which shall be posted not later than 12:00 Midnight on the third business day following execution of the tobacco contract.
  - (3) In the event of cancellation pursuant to this subsection, the tobacco grower shall refund to the tobacco company within ten days after the cancellation any consideration received by the tobacco grower from the tobacco company under the tobacco contract.
  - (4) Notice of cancellation given by the tobacco grower need not take any particular form and, however expressed, is effective if it indicates the intention of the tobacco grower not to be bound by the tobacco contract.

### History

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Code 1981, § 10-4-107.1, enacted by Ga. L. 2000, p. 561, § 1; Ga. L. 2001, p. 4, § 10; Ga. L. 2001, p. 1212, § 2.

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## O.C.G.A. § 10-4-108

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-108. Records and reports by warehousemen.**

---

Each licensee shall keep a correct daily account of the number of pounds of leaf tobacco sold upon the floor of his warehouse. On or before Monday of each week, the licensee shall make a statement under oath of all of the tobacco sold upon the floor of his warehouse during the preceding week and shall transmit each report to the Commissioner of Agriculture. The report shall be so arranged and classified as to show the number of pounds of tobacco sold for producers, the number of pounds sold for dealers, and the number of pounds resold by the licensee for his own account or for the account of some other warehouse or licensee. In addition thereto, each licensee shall indicate the number of pounds of Type 14 flue-cured leaf tobacco sold upon the floor of his warehouse for producers thereof and the number of pounds of Type 14 flue-cured leaf tobacco sold by persons other than producers upon the floor of his warehouse. The licensee shall report the total number of pounds of other than Type 14 flue-cured leaf tobacco sold for producers and persons other than producers. In addition thereto, each licensee shall make such additional reports as shall be prescribed by the Commissioner.

### **History**

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Ga. L. 1960, p. 214, § 6.

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## O.C.G.A. § 10-4-109

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-109. Commissioner of Agriculture to keep sales records; publication.**

The Commissioner of Agriculture shall cause to be kept and compiled the information submitted to him as to the sales of tobacco in this state. He shall cause such records to be kept in a manner so as to show the number of pounds of Type 14 tobacco sold by each warehouse as well as the number of pounds of other than Type 14 tobacco sold by each warehouse. He shall cause such records to be kept in a manner so as to show separately the number of pounds of Type 14 tobacco and other types sold by producers and the number of pounds of each type of tobacco resold. The Commissioner is authorized to cause such information to be published in a manner that he deems most beneficial.

### **History**

Ga. L. 1960, p. 214, § 7.

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## O.C.G.A. § 10-4-110

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*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)*

**10-4-110. [Reserved] Advisory board; creation; membership; compensation; expenses.**

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### History

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Ga. L. 1960, p. 214, § 8; Ga. L. 1970, p. 6, § 1; repealed by Ga. L. 2008, p. 1015, § 2, effective May 14, 2008.

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## O.C.G.A. § 10-4-111

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-111. Meetings of advisory board; duties; fixing opening date of marketing season; revocation of license for early sale.**

---

(a) The board shall meet in June of each year, or upon the call of the chairman, to survey the condition of the tobacco crop and recommend an opening date of the marketing season. The chairman shall determine the time and place of the meeting.

(b) The board shall recommend to the Commissioner of Agriculture a date for the opening of the tobacco marketing season. The Georgia Commissioner of Agriculture shall invite the Florida Commissioner of Agriculture and one member of the Florida Tobacco Advisory Board to attend meetings of the Georgia Tobacco Advisory Board to submit evidence as to the opening date best suited to meet the needs of the Florida flue-cured leaf tobacco producers. The Commissioner shall cause two members of the Tobacco Advisory Board to attend the meeting of the board of governors of the Bright Belt Warehouse Association to make known the recommendations as to the opening of the marketing season in Georgia. One of these members shall be a legislative member and the other member a tobacco farmer member of the board.

(c) The Commissioner shall determine and announce the opening date of the tobacco marketing season in this state. If any licensee shall hold a sale prior to the date determined by the Commissioner, the license of the licensee shall be revoked in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” and shall not be reinstated or reissued in the calendar year of the revocation. The revocation provided in this subsection shall be in addition to the other penalties provided for the violation of this part. It is the intent and purpose of this Code section to provide a procedure for the fixing of the opening date of the tobacco marketing season and to place the final authority to fix said date in the Commissioner of Agriculture.

### **History**

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Ga. L. 1960, p. 214, § 9; Ga. L. 1970, p. 6, § 2.

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## O.C.G.A. § 10-4-112

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-112. Limitations on sales hours and days of warehouses.**

---

- (a) The operating day of each flue-cured leaf tobacco warehouse shall not exceed the number of hours required to handle and sell adequately and efficiently the number of pounds or piles of tobacco allowed to be sold each day.
- (b) The operating week of such warehouse shall be limited to five actual selling days, provided that no sale shall be held on Saturday or Sunday.
- (c) All tobacco warehouses shall be closed on Sunday for the purpose of receiving, unloading, weighing, or placing tobacco on a warehouse floor between the hours of 12:01 A.M., Sunday and 12:01 A.M., Monday.

### **History**

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Ga. L. 1960, p. 214, § 10; Ga. L. 1968, p. 1242, § 3; Ga. L. 1970, p. 4, § 2.

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## O.C.G.A. § 10-4-113

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### **10-4-113. Maximum rate of sales.**

---

The maximum rate of sales at any flue-cured leaf tobacco warehouse shall not exceed 500 baskets during any one hour, nor shall the rate of sales during any one day or week exceed 500 baskets per hour.

### **History**

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Ga. L. 1960, p. 214, § 12; Ga. L. 1969, p. 941, § 1.

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## O.C.G.A. § 10-4-114

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-114. Auction tobacco dealers; licenses; regulations as to reports and records; refusal, suspension, or revocation of license.**

---

(a) Any person, firm, or corporation purchasing tobacco at auction at any flue-cured leaf tobacco auction sales establishment licensed under this Code section shall be deemed to be a tobacco dealer. It shall be unlawful for any person, firm, or corporation to engage in the business of a tobacco dealer without first having secured a license therefor from the Commissioner of Agriculture. There shall be no charge for such license, which shall be issued on an annual basis. Employees of a licensed tobacco dealer need not be individually licensed.

(b) The Commissioner is authorized to provide by rule or regulation for the filing of reports and records by licensed tobacco dealers containing such information as the Commissioner shall deem necessary for the proper enforcement of this part.

(c) The Commissioner may refuse, suspend, or revoke any such license upon a showing of violation of this part or any rule or regulation promulgated and adopted pursuant to this part.

### **History**

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Ga. L. 1974, p. 518, § 4.

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## O.C.G.A. § 10-4-114.1

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-114.1. [Repealed] Grading by the Agriculture Marketing Service; alternatives if graders unavailable.**

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#### **History**

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Code 1981, § 10-4-114.1, enacted by Ga. L. 2001, p. 900, § 3; repealed by Ga. L. 2005, p. 622, § 1/SB 287, effective July 1, 2005.

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## O.C.G.A. § 10-4-115

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-115. Nonauction tobacco dealers licensed; bond or trust fund agreement; records and reports; certified public weighers provided; penalty.**

(a) Any person, firm, or corporation purchasing flue-cured leaf tobacco from producers other than at auction sales shall be required to apply to and obtain from the Commissioner of Agriculture a nonauction tobacco dealer's license prior to engaging in such purchase operations. Such license shall be renewable on an annual basis. There shall be an annual fee for each such license issued by the Commissioner. The amount of such fee shall be established by the Commissioner in an amount not to exceed \$150.00 per annum. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1. Each applicant for a nonauction tobacco dealer's license shall indicate in writing to the Commissioner each year before the first auction sale of the tobacco-selling season an intent to buy flue-cured leaf tobaccos from producers other than at auction in order to be eligible for a nonauction tobacco dealer's license for that selling season.

(b) Prior to the issuance or renewal of a nonauction tobacco dealer's license to an applicant or a licensee, the applicant or licensee shall post with the Commissioner a surety bond or trust fund agreement in the amount of 20 percent of the total purchases made by the applicant or licensee of flue-cured leaf tobacco from producers other than at auction during the preceding tobacco-selling season. The bond or trust fund agreement shall guarantee the purchases made by the applicant or licensee from producers other than at auction sales and shall in no instance be less than \$20,000.00 nor more than \$200,000.00.

(c) Each nonauction tobacco dealer shall compile and maintain such records and periodic reports pertaining to the purchase of tobacco from producers other than at auction sales as the Commissioner may require and shall make such records and reports available for inspection by the Commissioner or his representative during any business hours.

(d) It shall be the duty of each licensed nonauction tobacco dealer to provide or have access to a certified public weigher for the weighing of tobacco purchased by a nonauction dealer from producers other than at auction sales.

(e) It shall be unlawful for any person, firm, or corporation to purchase flue-cured leaf tobacco from producers other than at auction sales without complying with this Code section. Any person violating this Code section shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1977, p. 189, § 1; Ga. L. 2001, p. 900, § 2; Ga. L. 2010, p. 9, § 1-31/HB 1055.

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## O.C.G.A. § 10-4-116

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### **10-4-116. Inspection of premises and records.**

---

The Commissioner of Agriculture, himself or through his agent, is authorized to inspect the premises of each licensee as often as he shall deem necessary. It shall be the duty of each licensee to cause to be kept records that shall be open to inspection by the Commissioner in such manner as to show accurately the origin and disposition of each type of flue-cured leaf tobacco.

### **History**

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Ga. L. 1960, p. 214, § 17.

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## O.C.G.A. § 10-4-117

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### **10-4-117. Certified public weighers to be provided by licensees.**

---

It shall be the duty of each licensee to provide a certified public weigher for the weighing of tobacco upon his premises; and it shall be unlawful for any person to weigh tobacco for sale who is not a certified public weigher.

### **History**

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Ga. L. 1960, p. 214, § 18.

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## O.C.G.A. § 10-4-117.1

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### **10-4-117.1. Detention of tobacco; notice; condemnation; cost of testing.**

---

(a) Whenever a duly authorized agent of the Commissioner finds or has probable cause to believe that any tobacco has been treated with any pesticide not currently registered by the United States Environmental Protection Agency or the Commissioner, or both, for use on tobacco or contains a residue of any pesticide or other substance at a level which exceeds the current residue standard established for that pesticide or other substance by the United States Agricultural Stabilization and Conservation Service to protect and ensure the orderly marketing of Georgia grown tobacco, the agent shall affix to such tobacco or otherwise give to the owner or custodian of such tobacco a notice advising that such tobacco is being detained by the Commissioner. Such notice of detention shall apply to all tobacco produced by that grower during that season, including tobacco already harvested or tobacco to be harvested. It shall be unlawful for any person to remove any such notice affixed to tobacco or to remove or dispose of such tobacco by sale or otherwise without written permission from the Commissioner's agent or a court of competent jurisdiction.

(b) If the Commissioner finds that no residue of pesticides or other substances in the detained tobacco exceeds any residue standard as specified in subsection (a) of this Code section, the Commissioner shall promptly remove all markings from such tobacco and release it from detention, in writing.

(c) When any tobacco detained under subsection (a) of this Code section has been found by the Commissioner to contain any residue in excess of those specified in subsection (a) of this Code section, the Commissioner shall bring an action for condemnation of such tobacco in the superior court of the county where the tobacco is being detained. After the Commissioner has made an initial finding of any residue in the detained tobacco in excess of any residue standard established by the United States Agricultural Stabilization and Conservation Service as provided for in subsection (a) of this Code section, the costs of all subsequent testing which the Commissioner shall require to confirm that residues in such detained tobacco do not exceed any residue standard established by the United States Agricultural Stabilization and Conservation Service shall be borne by the producers and such tests shall be performed only by a laboratory approved by the Commissioner.

### **History**

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Code 1981, § 10-4-117.1, enacted by Ga. L. 1988, p. 373, § 1.

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## O.C.G.A. § 10-4-118

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### **10-4-118. Enforcement of part; notice and hearing in revocation or suspension proceedings.**

---

It shall be the duty of the Commissioner of Agriculture to enforce this part and to utilize any employee of the Department of Agriculture in the performance of his duties under this part. The Commissioner is authorized to revoke or suspend any license or registration issued under this part to any person violating this part or any rule or regulation adopted pursuant to this part, after notice and hearing before the Commissioner in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

### **History**

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Ga. L. 1960, p. 214, § 19.

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## O.C.G.A. § 10-4-119

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### **10-4-119. Suspension or revocation of license or registration pending investigation and correction of violation.**

---

At such time as the Commissioner of Agriculture deems there has been a violation of this part and the rules and regulations promulgated under this part, he shall have the power and authority, in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," to suspend the license or registration pending investigation of the violation and until such time as the violation has been corrected to the satisfaction of the Commissioner. During the period of time of any investigation of a violation, the Commissioner shall have the power and authority to impound all books and records and to preserve and maintain evidence until the investigation is completed; provided, however, that the investigation shall be completed at the earliest practicable time.

### **History**

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Ga. L. 1960, p. 214, § 23.

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### **10-4-120. Enjoining violations.**

---

In addition to the remedies provided in this part and notwithstanding the existence of any other remedy of law and notwithstanding the pendency of any criminal prosecution, the Commissioner of Agriculture is authorized to apply to the superior court; and such court shall have jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent injunction or an ex parte restraining order restraining or enjoining any person from violating or continuing to violate this part or for the failure or refusal to comply with this part or any rule or regulation promulgated under this part. Such injunction shall be issued without bond.

### **History**

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Ga. L. 1960, p. 214, § 20.

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## **10-4-121. Procedure for adopting or changing rules and regulations; administrative review of objections.**

---

- (a) Prior to adoption or change of any rules and regulations, the Commissioner of Agriculture shall promulgate the proposed rule or regulation or change and afford interested persons an opportunity to be heard and submit data and views orally or in writing.
- (b) Any person with a real and substantial interest who is affected by a rule or regulation of the Commissioner and who believes that the Commissioner, in the promulgation or enforcement of such rule or regulation, has exceeded the authority vested in him by the General Assembly under the Constitution of Georgia or the United States shall have the right to petition the Commissioner for the repeal or rejection of such rule or regulation by pointing out in what respect and for what reasons he contends the rule to be unlawful or unconstitutional. The Commissioner is required to consider every such petition and afford the petitioner an opportunity to be heard within 30 days; and, after argument, the Commissioner shall determine the merits of the petition. If the Commissioner decides in whole or in part in favor of the petitioner, the Commissioner shall take corrective measures within 30 days after the hearing to give the petitioner relief in every respect from any unlawful or unconstitutional rule or regulation. The foregoing is expressly made an administrative remedy; and every person affected by any rule or regulation or any act of the Commissioner is required to exhaust this remedy before taking any other steps, except as otherwise provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."
- (c) All hearings before the Commissioner shall be stenographically reported and shall be available to any interested party upon payment of the stenographic cost.

## **History**

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Ga. L. 1960, p. 214, § 21.

Official Code of Georgia Annotated

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## O.C.G.A. § 10-4-122

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-122. Judicial review of administrative decision.**

---

Any person aggrieved by a final decision or determination in any matter in which a hearing is required or authorized by this part or by the state or federal Constitution is entitled to judicial review thereof in accordance with the provisions of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” for the judicial review of contested cases.

### **History**

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Ga. L. 1960, p. 214, § 22.

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## O.C.G.A. § 10-4-123

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 1 Leaf Tobacco Sales and Storage (§§ 10-4-100 — 10-4-123)***

### **10-4-123. General penalty for violation of part.**

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Any person who shall violate any provision of this part for which no specific punishment is provided in this part shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1960, p. 214, § 27.

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## O.C.G.A. § 10-4-140

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-140. Legislative intent and findings.**

---

It is the intent and purpose of this part to enable producers of flue-cured leaf tobacco to avail themselves of an adequate and safe method of storing flue-cured leaf tobacco unsold in the year of production until the subsequent selling season for purposes of marketing at that time. It is found by the General Assembly that the provisions specified in this part are necessary to the proper marketing of carry-over flue-cured leaf tobacco.

### **History**

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Ga. L. 1975, p. 1263, § 1.

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# O.C.G.A. § 10-4-141

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

## 10-4-141. Definitions.

---

As used in this part, the term:

- (1) “Carry-over tobacco” means any tobacco unsold in the year of its production and held, for whatever reason, in storage until the subsequent selling season for sale in that season.
- (2) “Operator” means any person, firm, partnership, or corporation engaged in the receipt for storage or storage, or both, of tobacco unsold in the year of production until the subsequent selling season for sale in that season.
- (3) “Producer” means any flue-cured leaf tobacco grower who has tobacco in excess of his current marketing quota which will be eligible for sale during the subsequent selling season.

## History

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Ga. L. 1975, p. 1263, § 15.

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## O.C.G.A. § 10-4-142

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-142. Licenses for carry-over tobacco services.**

---

No person, real or corporate, shall operate a service for receiving within this state flue-cured leaf tobacco for the purpose of weighing, redrying, and storing said tobacco from the year of production until the subsequent selling season for sale at that time without first having obtained a license from the Commissioner of Agriculture. Each license so issued shall automatically expire at the termination of the storage period and be subject to renewal annually under such rules and regulations as the Commissioner shall prescribe. The license fee shall be \$40.00 for each year. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1. Licensed operators of flue-cured leaf tobacco auction warehouses may be licensed without cost under this part upon application to the Commissioner. This part shall not require licensing of any federal agency, its agents, or contractors who receive carry-over tobacco.

### **History**

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Ga. L. 1975, p. 1263, § 2; Ga. L. 2010, p. 9, § 1-32/HB 1055.

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## O.C.G.A. § 10-4-143

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-143. Fire and extended coverage insurance on stored tobacco.**

---

As a prerequisite to the issuance of a license under this part, each applicant shall furnish evidence to the Commissioner of Agriculture that there is in force an insurance policy against loss or damage by fire and such other perils as are commonly insured against under extended coverage provisions, for its full value, upon the best terms obtainable by individual or reporting form blanket policies on the carry-over tobacco to be received for storage or stored, or both, by him in the year for which the license is sought, either provided by the applicant or the actual storer of the tobacco. The insurance policy shall be written by an insurance company, of the applicant's choice, authorized to transact business in this state or in the state where the tobacco is stored. Such insurance policy shall be effective for the entire storage period and shall be approved in form by the Commissioner of Insurance. A copy of the insurance policy shall be filed with the Commissioner of Agriculture.

### **History**

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Ga. L. 1975, p. 1263, § 3; Ga. L. 1989, p. 14, § 10.

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## O.C.G.A. § 10-4-144

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-144. Each licensee to be bonded.**

---

As a prerequisite to the issuance of a license under this part, each applicant shall also furnish evidence to the Commissioner of Agriculture that he has in force for the year for which the license is sought a bond issued by a corporate entity authorized to do business in this state in the penal sum of \$10,000.00. The bond shall be conditioned upon the licensee performing all the duties imposed upon him by law and the accounting for the proceeds of all carry-over flue-cured leaf tobacco received by him for storage and for sale.

### **History**

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Ga. L. 1975, p. 1263, § 4.

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## O.C.G.A. § 10-4-145

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-145. Maximum charges and expenses.**

---

The maximum charges and expenses to be maintained by operators under this part receiving tobacco unsold in the year of production to be stored until sold in the subsequent selling season shall not exceed 5¢ per pound for services rendered, if sold on a green-weight basis. If sold on a dry-weight basis, the charges may also include the actual cost of redrying as leaves or strips and shipping charges.

### **History**

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Ga. L. 1975, p. 1263, § 5.

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## O.C.G.A. § 10-4-146

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-146. Licensees to render statements upon receipt of tobacco.**

---

Each licensee shall render to each producer submitting carry-over tobacco for storage until the next selling season at the time of receipt of the tobacco a statement of the amount of tobacco tendered and the amount to be charged for servicing that tobacco other than actual cost of redrying as leaves or strips and shipping charges.

### **History**

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Ga. L. 1975, p. 1263, § 6.

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## O.C.G.A. § 10-4-147

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*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)*

### **10-4-147. Division of money received above contract sales price plus charges and expenses.**

---

The contract between the operator and producer shall state the percentage division of money received above the contract sales price plus a service charge and processing cost. The producer shall in no event receive less than 50 percent of this sum.

### **History**

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Ga. L. 1975, p. 1263, § 7.

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## O.C.G.A. § 10-4-148

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-148. Licensees' records and reports.**

---

Each licensee shall keep a record of the number of pounds of carry-over tobacco received by him for storage until the next selling season, identifying the amount received from each producer. The records shall also show the final disposition of the tobacco, whether redeemed by the producer or sold by operator for the producer at the subsequent selling season. It shall be the duty of each licensee to cause to be kept records that shall be open to inspection by the Commissioner of Agriculture in such manner as to show accurately the origin and disposition of the carry-over tobacco. Each licensee shall transmit this information to the Commissioner in such reports as prescribed by him. The licensee shall submit to the Commissioner a copy of all reports he is required by law or regulation to submit to the United States Department of Agriculture — Agricultural Soil Conservation Service.

### **History**

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Ga. L. 1975, p. 1263, § 7.

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## O.C.G.A. § 10-4-149

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*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)*

### **10-4-149. Commissioner of Agriculture to keep storage and sale records; publication.**

---

The Commissioner of Agriculture shall cause to be kept and compiled the information submitted to him as to the storage and sale of carry-over tobacco and is authorized to cause the information to be published in a manner that he deems most beneficial.

### **History**

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Ga. L. 1975, p. 1263, § 8.

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## O.C.G.A. § 10-4-150

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*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)*

### **10-4-150. Tender for storage not deemed sale; sale not consummated before next season.**

---

The tendering of carry-over tobacco by producers to operators to be stored until the next selling season shall not be deemed a sale as of the time of the tender. The sale of carry-over tobacco may not be consummated until after the beginning of the subsequent selling season.

### **History**

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Ga. L. 1975, p. 1263, § 9.

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## O.C.G.A. § 10-4-151

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### **10-4-151. Certified public weighers to be provided by licensees.**

---

It shall be the duty of each licensee to provide a certified public weigher for the weighing of carry-over tobacco at the time and place of receipt of the tobacco by operators for storage until the subsequent selling season, and it shall be unlawful for any person who is not a certified public weigher to weigh such tobacco.

### **History**

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Ga. L. 1975, p. 1263, § 10.

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## O.C.G.A. § 10-4-152

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-152. Regulations and physical standards for premises; inspection of premises.**

---

The Commissioner of Agriculture shall be authorized to promulgate regulations to implement this part, to accomplish its purposes, and to prescribe physical standards for buildings and premises used for the receipt or storage, or both, of carry-over tobacco. Such standards shall be reasonably designed to ensure the protection of producers and others from loss or damage to carry-over tobacco when received or held for storage, or both, until the subsequent selling season. It shall be a prerequisite to the issuance of a license under this part that the applicant has complied with all standards promulgated pursuant to this Code section. The Commissioner, or his agent, is authorized to inspect the premises of each licensee as often as he shall deem necessary.

### **History**

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Ga. L. 1975, p. 1263, § 11; Ga. L. 2000, p. 136, § 10.

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## O.C.G.A. § 10-4-153

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-153. Enforcement of part; revocation or suspension of licenses.**

---

It shall be the duty of the Commissioner of Agriculture to enforce this part and to utilize any employee of the Department of Agriculture in the performance of his duties under this part. The Commissioner is authorized to revoke or suspend, for violation of this part, any license issued under this part after notice and hearing before the Commissioner, in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

### **History**

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Ga. L. 1975, p. 1263, § 12.

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## O.C.G.A. § 10-4-154

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-154. Enjoining violations.**

---

In addition to the remedies provided in this part and notwithstanding the existence of any other remedy at law and notwithstanding the pendency of any criminal prosecution, the Commissioner of Agriculture is authorized to apply to the superior court and the court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction or an ex parte restraining order restraining or enjoining any person from violating or continuing to violate this part or for the failure or refusal to comply with this part or any rule or regulation promulgated under this part. Such injunction shall be issued without bond.

### **History**

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Ga. L. 1975, p. 1263, § 13.

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## O.C.G.A. § 10-4-155

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 2 Carry-over Leaf Tobacco Storage and Sale (§§ 10-4-140 — 10-4-155)***

### **10-4-155. Penalty for violating part or rules or regulations.**

---

Any person who violates any provision of this part or the rules and regulations issued under this part shall be guilty of a misdemeanor.

### **History**

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Ga. L. 1975, p. 1263, § 14.

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## **O.C.G.A. Title 10, Ch. 4, Art. 3, Pt. 3**

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 3 Tobacco Warehousemen's Associations (§§ 10-4-170 — 10-4-177)***

### **PART 3 Tobacco Warehousemen's Associations**

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## O.C.G.A. § 10-4-170

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 3 Tobacco Warehousemen's Associations (§§ 10-4-170 — 10-4-177)***

### **10-4-170. Local boards of trade and state-wide organization of warehousemen authorized.**

---

(a) Tobacco warehousemen licensed and bonded under the laws of this state to operate warehouses for the sale of leaf tobacco at auction are authorized to organize, either as nonstock corporations or as voluntary associations, tobacco boards of trade in the several municipalities of this state in which leaf tobacco is sold on warehouse floors at auction.

(b) Said tobacco warehousemen may also, by majority vote, authorize any nonstock corporation or voluntary association of tobacco warehousemen, in which a majority of such warehousemen in this state are members, to exercise on a state-wide basis the powers and duties provided in this part. In the event there shall be more than one such nonstock corporation or voluntary association in which a majority of such warehousemen are members, that organization possessing the largest number of such members shall be the organization which may be vested with such authority.

### **History**

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Ga. L. 1962, p. 102, § 1; Ga. L. 1972, p. 918, § 1.

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## O.C.G.A. § 10-4-171

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 3 Tobacco Warehousemen's Associations (§§ 10-4-170 — 10-4-177)***

### **10-4-171. Arbitrating organization of board of trade.**

---

In the event there are two such warehousemen in a municipality and in the event the two cannot agree as to the organization of any such board, or cannot agree as to any matter authorized under this part, it shall be the duty of each, upon notice or request by the other, to appoint one disinterested person; and the two persons so appointed shall appoint a third disinterested person; and the three persons so appointed, with the two warehousemen, shall determine the questions involved in the controversy, on failure to agree, by a majority vote.

### **History**

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Ga. L. 1962, p. 102, § 2.

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## O.C.G.A. § 10-4-172

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 3 Tobacco Warehousemen's Associations (§§ 10-4-170 — 10-4-177)***

### **10-4-172. Rules and regulations of boards of trade and state-wide organization.**

---

(a) Each such tobacco board of trade is authorized to make reasonable rules and regulations not in conflict with the laws of this state and the rules and regulations promulgated under the laws of this state for the economical and efficient handling and sale of leaf tobacco at auction on the warehouse floors in the municipality in which the tobacco board of trade is organized under this part.

(b) A state-wide corporation or association, as provided in this part, is authorized to make such reasonable rules and regulations as provided in this part for the economical and efficient handling and sale of leaf tobacco at auction in the several tobacco markets in this state.

### **History**

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Ga. L. 1962, p. 102, § 3; Ga. L. 1972, p. 918, § 2.

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## O.C.G.A. § 10-4-173

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 3 Tobacco Warehousemen's Associations (§§ 10-4-170 — 10-4-177)***

### **10-4-173. Local and state-wide membership fees.**

---

(a) The tobacco boards of trade in the several municipalities in Georgia are authorized to require as a condition to membership therein the payment of a reasonable fee which shall not exceed:

- (1) \$50.00 in those municipalities in which less than 3 million pounds of tobacco was sold at auction during the year 1960;
- (2) \$100.00 in those municipalities in which not less than 3 million pounds but less than 10 million pounds of tobacco was sold at auction during the year 1960;
- (3) \$150.00 in those municipalities in which not less than 10 million pounds but less than 25 million pounds of tobacco was sold at auction during the year 1960;
- (4) \$300.00 in those municipalities in which 25 million pounds or more of tobacco was sold at auction during the year 1960.

(b) A state-wide corporation or association, as provided in this part, may require as a condition to membership therein the payment of a reasonable fee which shall not exceed \$100.00 per 1 million pounds of producers' tobacco sold at auction during the year preceding the year in which the fee is assessed.

### **History**

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Ga. L. 1962, p. 102, § 4; Ga. L. 1972, p. 918, § 3.

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## O.C.G.A. § 10-4-174

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 3 Tobacco Warehousemen's Associations (§§ 10-4-170 — 10-4-177)***

### **10-4-174. Membership in board of trade and state-wide organization as conditions for operating warehouse.**

---

In addition to complying with the laws of this state relative to the operation of tobacco warehouses, local boards of trade may require membership in good standing in the local board of trade as a condition to participate in the business of operating a tobacco warehouse in such municipality; and, in addition thereto, a state-wide corporation or association, as provided in this part, may require membership in such state-wide organization as a condition to participate in the business of operating a tobacco warehouse in this state; and such requirements shall be deemed reasonable requirements by the board of trade or state-wide organization.

### **History**

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Ga. L. 1962, p. 102, § 5; Ga. L. 1972, p. 918, § 4.

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## O.C.G.A. § 10-4-175

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 3 Tobacco Warehousemen's Associations (§§ 10-4-170 — 10-4-177)***

### **10-4-175. Categories of membership; participation in allocating sale time; liability for board's acts.**

---

Membership in the several boards of trade may be divided into categories as the board may provide in its bylaws and may include, in addition to warehousemen, members other than warehousemen. The holder of a membership other than a warehouseman shall not participate in the allocation of sale time among the warehousemen. The board of trade may provide for the participation of membership other than warehousemen in matters other than the allocation of sales time. Members in any of the several boards of trade authorized by this part shall not be responsible or liable for any of the acts, omissions, or commissions of the several tobacco boards of trade except as to the extent of their participation therein. Membership in a state-wide corporation or association, as provided in this part, shall be limited to warehousemen. The holder of a membership in such state-wide organization who is not the operator of a warehouse in this state shall not participate in the allocation of sales time among the tobacco markets in this state.

### **History**

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Ga. L. 1962, p. 102, § 6; Ga. L. 1972, p. 918, § 5.

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## O.C.G.A. § 10-4-176

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 3 Tobacco Warehousemen's Associations (§§ 10-4-170 — 10-4-177)***

### **10-4-176. Appealing suspension or expulsion from board of trade or state-wide organization.**

---

Any person suspended or expelled from a tobacco board of trade may appeal from such suspension or expulsion to the superior court of the county in which the board of trade is located. Any person suspended or expelled from the state-wide organization provided for in this part may appeal from such suspension or expulsion to the superior court of the county in which the person's warehouse is located. The appeal shall be a de novo investigation by the court, and the court in considering the appeal may make such findings in relation thereto as the circumstances may warrant.

### **History**

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Ga. L. 1962, p. 102, § 7; Ga. L. 1972, p. 918, § 6.

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## O.C.G.A. § 10-4-177

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 3 Tobacco Warehousing (Pts. 1 — 3) > PART 3 Tobacco Warehousemen's Associations (§§ 10-4-170 — 10-4-177)***

### **10-4-177. Price fixing or restraint of trade not authorized; regulation of leaf tobacco selling unaffected.**

---

Nothing in this part shall authorize the organization of any association or corporation having for its purpose the control of prices or the making of rules and regulations in restraint of trade or in conflict with the laws of this state or rules and regulations promulgated under such laws. Nothing contained in this part shall supersede, alter, amend, or repeal the authority of the Commissioner of Agriculture to regulate the sale of leaf tobacco as provided by law.

### **History**

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Ga. L. 1962, p. 102, § 8.

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## O.C.G.A. § 10-4-190

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 4 Convenience Warehousing (§§ 10-4-190 — 10-4-193)***

### **10-4-190. Short title.**

---

This article shall be known and may be cited as the “Convenience Warehouse Act of 1975.”

### **History**

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Ga. L. 1975, p. 1156, § 1.

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# O.C.G.A. § 10-4-191

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 4 Convenience Warehousing (§§ 10-4-190 — 10-4-193)**

## **10-4-191. Definitions; exemption of state licensed or bonded warehouses.**

---

(a) As used in this article, the term:

(1) “Convenience warehouse” means a series of storage spaces contained in one building or in a series of buildings which are designed and used for the purpose of renting or leasing individual storage spaces to persons in order that any person renting or leasing one or more of such individual storage spaces shall have access for the purpose of storing property therein.

(2) “Person” means an individual, corporation, association, partnership, or other organization.

(b) Nothing in this article shall be construed to apply to a public warehouse licensed pursuant to Article 1 of this chapter, as now or hereafter amended, nor to any person engaged in business as a bonded public warehouseman pursuant to law providing for such bonded public warehouseman.

## **History**

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Ga. L. 1975, p. 1156, § 2.

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## O.C.G.A. § 10-4-192

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 4 Convenience Warehousing (§§ 10-4-190 — 10-4-193)***

### **10-4-192. Convenience warehouseman to obtain and retain certain information; property ownership statement.**

---

(a) Any person engaged in the business of operating a convenience warehouse shall obtain from each person renting or leasing a storage space the following information:

- (1) His name, age, home address, and home telephone number, if any;
- (2) His social security number, if any;
- (3) His driver's license number, if any; and
- (4) The name and address of his employer.

(b) In addition to the requirements of subsection (a) of this Code section, any person renting or leasing a storage space from a convenience warehouse shall sign a written document, under oath, that he is the owner of or has legal possession of any property which he intends to store in the storage space rented or leased by him. A copy of the signed document shall be given to the person executing it, and the original thereof shall be retained in the records of the person engaged in the business of operating the convenience warehouse.

(c) The information required by subsections (a) and (b) of this Code section shall be retained by the person engaged in the business of operating the convenience warehouse for a period of at least one year following the last date on which the storage space was rented or leased to the person covered by such information.

### **History**

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Ga. L. 1975, p. 1156, § 3.

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## O.C.G.A. § 10-4-193

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 4 Convenience Warehousing (§§ 10-4-190 — 10-4-193)**

### 10-4-193. Penalties.

---

- (a) Any person engaged in the business of operating a convenience warehouse who fails to obtain the information required by subsection (a) of Code Section 10-4-192 or who rents or leases a storage space without first obtaining the written document required by subsection (b) of Code Section 10-4-192 or who knowingly and willfully fails to comply with subsection (c) of Code Section 10-4-192 shall be guilty of a misdemeanor.
- (b) Any person who intentionally provides any false information pursuant to subsection (a) of Code Section 10-4-192 shall be guilty of a misdemeanor.
- (c) Any person who knowingly provides false information in executing the document required by subsection (b) of Code Section 10-4-192 commits the offense of false swearing within the meaning of Code Section 16-10-71.

### History

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Ga. L. 1975, p. 1156, § 4.

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## O.C.G.A. § 10-4-210

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 5 Self-Service Storage Facilities (§§ 10-4-210 — 10-4-217)***

### **10-4-210. Short title.**

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This article shall be known and may be cited as the “Georgia Self-service Storage Facility Act of 2013.”

### **History**

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Ga. L. 1982, p. 2286, § 1; Code 1981, § 10-4-210, enacted by Ga. L. 1982, p. 2286, § 7; Ga. L. 2013, p. 555, § 1/SB 61.

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# O.C.G.A. § 10-4-211

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 5 Self-Service Storage Facilities (§§ 10-4-210 — 10-4-217)**

## 10-4-211. Definitions.

---

For purposes of this article, the term:

- (1) “Email” means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals. The term includes electronic messages that are transmitted within or between computer networks.
- (2) “Last known address” means the street address, post office box address, or email address provided by the occupant in the latest rental agreement or the address provided by the occupant in a subsequent written notice of a change of address by hand delivery, verified mail, or email.
- (3) “Occupant” means a person, his or her sublessee, successor, or assign entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.
- (4) “Owner” means the operator, lessor, or sublessor of, or person having an ownership interest in, a self-service storage facility; an agent of such operator, lessor, or sublessor; or any other person authorized to manage the facility or to receive rent from an occupant under a rental agreement.
- (5) “Personal property” means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, motor vehicles, trailers, watercraft, and household items and furnishings.
- (6) “Rental agreement” means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of a self-service storage facility.
- (7) “Self-service storage facility” means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such for the purpose of storing and removing personal property; provided, however, that such term shall not mean a:
  - (A) Warehouse within the meaning of Article 1 of this chapter, known as the “Georgia State Warehouse Act”; or
  - (B) Safe-deposit box or vault maintained by banks, trust companies, or other financial entities.
- (8) “Verified mail” means certified mail, registered mail, statutory overnight delivery, or other method of mailing or delivery in which the post office or delivery service furnishes proof that the parcel was sent.

## History

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Ga. L. 1982, p. 2286, § 2; Code 1981, § 10-4-211, enacted by Ga. L. 1982, p. 2286, § 7; Ga. L. 1983, p. 3, § 8; Ga. L. 2004, p. 976, § 1; Ga. L. 2013, p. 555, § 1/SB 61; Ga. L. 2019, p. 789, § 1/SB 97.

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## O.C.G.A. § 10-4-212

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 5 Self-Service Storage Facilities (§§ 10-4-210 — 10-4-217)***

### **10-4-212. Lien of owner of self-service storage facility upon property located at facility; priority; attachment.**

---

The owner of a self-service storage facility and his or her heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, fees for the late payment of rent, labor, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this article. The lien provided for in this Code section is superior to any other lien or security interest except those which are perfected and recorded prior to the date of the rental agreement in Georgia in the name of the occupant, either in the county of the occupant's last known address or in the county where the self-service storage facility is located, except any tax lien as otherwise provided by law and except any lienholder with an interest in the property of whom the owner has knowledge either through the disclosure provision of the rental agreement or through other written notice. The lien attaches as of the date the personal property is brought to the self-service storage facility.

### **History**

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Ga. L. 1982, p. 2286, § 3; Code 1981, § 10-4-212, enacted by Ga. L. 1982, p. 2286, § 7; Ga. L. 2000, p. 136, § 10; Ga. L. 2013, p. 555, § 1/SB 61; Ga. L. 2019, p. 789, § 2/SB 97.

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## O.C.G.A. § 10-4-213

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 5 Self-Service Storage Facilities (§§ 10-4-210 — 10-4-217)**

### **10-4-213. Enforcement of lien without judicial intervention.**

Provided that it complies with the requirements of this Code section, an owner may enforce the lien without judicial intervention. The owner shall obtain from the occupant a written rental agreement which includes the following language:

This agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_, hereinafter called Owner, and \_\_\_\_\_, hereinafter called Occupant, whose last known address is \_\_\_\_\_. For the consideration hereinafter stated, Owner agrees to let Occupant use and occupy a space in the self-service storage facility, known as \_\_\_\_\_, situated in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Georgia, and more particularly described as follows: Building # \_\_\_\_\_, Space # \_\_\_\_\_, Size \_\_\_\_\_. Said space is to be occupied and used for the purposes specified herein and subject to the conditions set forth for a period of \_\_\_\_\_, beginning on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and continuing month to month until terminated.

"Space," as used in this agreement, will be that part of the self-service storage facility as described above. Occupant agrees to pay Owner, as payment for the use of the space and improvements thereon, the monthly sum of \$\_\_\_\_\_. Monthly installments are payable in advance on or before the first of each month, in the amount of \$\_\_\_\_\_, and a like amount for each month thereafter, until the termination of this agreement.

If any monthly installment is not paid by the seventh calendar day of the month due, or if any check given in payment is dishonored by the financial institution on which it is drawn, Occupant shall be deemed to be in default.

Occupant further agrees to pay the sum of one month's fees, which shall be used as a clean-up and maintenance fund, and is to be used, if required, for the repair of any damage done to the space and to clean up the space at the termination of the agreement. In the event that the space is left in a good state of repair, and in a broom-swept condition, then this amount shall be refunded to Occupant. However, it is agreed to between the parties that Owner may set off any claims it may have against Occupant from this fund.

The space named herein is to be used by Occupant solely for the purpose of storing any personal property belonging to Occupant. Occupant agrees not to store any explosives or any highly inflammable goods or any other goods in the space which would cause danger to the space. Occupant agrees that the property will not be used for any unlawful purposes and Occupant agrees not to commit waste, nor alter, nor affix signs on the space, and to keep the space in good condition during the term of this agreement.

OWNER HAS A LIEN ON ALL PERSONAL PROPERTY STORED IN OCCUPANT'S SPACE FOR RENT, FEES FOR THE LATE PAYMENT OF RENT, LABOR, OR OTHER CHARGES, PRESENT OR FUTURE, IN RELATION TO THE PERSONAL PROPERTY, AND FOR ITS PRESERVATION OR

EXPENSES REASONABLY INCURRED IN ITS SALE OR OTHER DISPOSITION PURSUANT TO THIS AGREEMENT. PERSONAL PROPERTY STORED IN OCCUPANT'S SPACE WILL BE SOLD OR OTHERWISE DISPOSED OF IF NO PAYMENT HAS BEEN RECEIVED FOR A CONTINUOUS THIRTY-DAY PERIOD AFTER DEFAULT. IN ADDITION, UPON OCCUPANT'S DEFAULT, OWNER MAY WITHOUT NOTICE DENY OCCUPANT ACCESS TO THE PERSONAL PROPERTY STORED IN OCCUPANT'S SPACE UNTIL SUCH TIME AS PAYMENT IS RECEIVED. IF ANY MONTHLY INSTALLMENT IS NOT MADE BY THE SEVENTH CALENDAR DAY OF THE MONTH DUE, OR IF ANY CHECK GIVEN IN PAYMENT IS DISHONORED BY THE FINANCIAL INSTITUTION ON WHICH IT IS DRAWN, OCCUPANT IS IN DEFAULT FROM DATE PAYMENT WAS DUE.

I hereby agree that all notices other than bills and invoices shall be given by hand delivery, verified mail, or email at the following addresses:

\_\_\_\_\_ (hand delivery)

\_\_\_\_\_ (verified mail)

\_\_\_\_\_ (email).

and I further understand that I may designate to owner an agent to receive such notice by providing:

\_\_\_\_\_ (hand delivery)

\_\_\_\_\_ (verified mail)

\_\_\_\_\_ (email).

For purposes of Owner's lien: "personal property" means movable property, not affixed to land, and includes, but is not limited to, goods, wares, merchandise, motor vehicles, trailers, watercraft, household items, and furnishings; "last known address" means the street address or post office box address provided by Occupant in the latest rental agreement or the address provided by Occupant in a subsequent written notice of a change of address by hand delivery, verified mail, or email.

Owner's lien is superior to any other lien or security interest, except those which are evidenced by a certificate of title or perfected and recorded prior to the date of this rental agreement in Georgia, in the name of Occupant, either in the county of Occupant's "last known address" or in the county where the self-service storage facility is located, except any tax lien as provided by law and except those liens or security interests of whom Owner has knowledge through Occupant's disclosure in this rental agreement or through other written notice. Occupant attests that the personal property in Occupant's space(s) is free and clear of all liens and secured interests except for \_\_\_\_\_. Owner's lien attaches as of the date the personal property is brought to the self-service storage facility.

Except as otherwise specifically provided in this rental agreement, the exclusive care, custody, and control of any and all personal property stored in the leased space shall remain vested in Occupant. Owner does not become a bailee of Occupant's personal property by the enforcement of Owner's lien.

If Occupant has been in default continuously for thirty (30) days, Owner may enforce its lien, provided Owner shall comply with the following procedure:

Occupant shall be notified of Owner's intent to enforce Owner's lien by written notice delivered in person, by verified mail, or by email. Owner also shall notify other parties with superior liens or security interests as defined in this rental agreement. A notice given pursuant to this rental agreement shall be presumed sent when it is deposited with the United States Postal Service or the statutory overnight delivery service properly addressed with postage or delivery fees prepaid or sent by email. If Owner sends notice of a pending sale of property to Occupant's last known email address and does not receive a nonautomated response or a receipt of delivery to the email address, Owner shall send notice of the sale to Occupant by verified mail to Occupant's last known address or to the last known address of the designated agent of the Occupant before proceeding with the sale.

Owner's notice to Occupant shall include an itemized statement of Owner's claim showing the sum due at the time of the notice and the date when the sum became due. Owner's notice shall notify Occupant of denial of access to the personal property and provide the name, street address, email address, and

## O.C.G.A. § 10-4-213

telephone number of Owner or its designated agent, whom Occupant may contact to respond to this notice. Owner's notice shall demand payment within a specified time, not less than fourteen (14) days after delivery of the notice. It shall state that, unless the claim is paid, within the time stated in the notice, the personal property will be advertised for public sale to the highest bidder, and will be sold at a public sale to the highest bidder, at a specified time and place.

After the expiration of the time given in Owner's notice, Owner shall publish an advertisement of the public sale to the highest bidder, once a week, for two consecutive weeks, in the legal organ for the county where the self-service storage facility is located. The sale shall be deemed commercially reasonable if at least three (3) independent bidders attend the sale at the time and place advertised. "Independent bidder" means a bidder who is not related to and who has no controlling interest in, or common pecuniary interest with, Owner or any other bidder. The advertisement shall include: a brief and general description of the personal property, reasonably adequate to permit its identification; the address of the self-service storage facility, and the number, if any, of the space where the personal property is located, and the name of Occupant; and the time, place, and manner of the public sale. The public sale to the highest bidder shall take place not sooner than fifteen (15) days after the first publication. Regardless of whether a sale involves the property of more than one Occupant, a single advertisement may be used to advertise the disposal of property at the sale. A public sale includes offering the property on a publicly accessible website that regularly conducts online auctions of personal property. Such sale shall be considered incidental to the self-storage business and no license shall be required.

If no one purchases the property at the public sale and if Owner has complied with the foregoing procedures, Owner may otherwise dispose of the property and shall notify Occupant of the action taken. Any sale or disposition of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored.

Before any sale or other disposition of personal property pursuant to this agreement, Occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred and thereby redeem the personal property and thereafter Owner shall have no liability to any person with respect to such personal property.

A Purchaser in good faith of the personal property sold to satisfy Owner's lien takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by Owner with the requirements of this agreement.

In the event of a sale, Owner may satisfy his or her lien from the proceeds of the sale. Owner shall hold the balance of the proceeds, if any, for Occupant or any notified secured interest holder. If not claimed within two years of the date of sale, the balance of the proceeds shall be disposed of in accordance with Article 5 of Chapter 12 of Title 44, the "Disposition of Unclaimed Property Act." In no event shall Owner's liability exceed the proceeds of the sale.

If the rental agreement contains a limit on the value of property stored in Occupant's storage space, the limit shall be deemed to be the maximum value of the property stored in that space.

If the property upon which the lien is claimed is a motor vehicle, trailer, or watercraft and rent and other charges related to the property remain unpaid or unsatisfied for 60 days following the maturity of the obligation to pay rent, Owner may have the property towed in lieu of foreclosing on the lien. If a motor vehicle, trailer, or watercraft is towed as authorized in this section, Owner shall not be liable for the motor vehicle, trailer, or watercraft or any damages to the motor vehicle, trailer, or watercraft once the tower takes possession of the property.

## History

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Ga. L. 1982, p. 2286, § 4; Code 1981, § 10-4-213, enacted by Ga. L. 1982, p. 2286, § 7; Ga. L. 1983, p. 3, § 8; Ga. L. 1984, p. 22, § 10; Ga. L. 1992, p. 6, § 10; Ga. L. 1999, p. 81, § 10; Ga. L. 2000, p. 425, § 1; Ga. L. 2000, p.

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1589, § 3; Ga. L. 2004, p. 976, § 2; Ga. L. 2005, p. 60, § 10/HB 95; Ga. L. 2013, p. 555, § 1/SB 61; Ga. L. 2019, p. 789, § 3/SB 97.

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 5 Self-Service Storage Facilities (§§ 10-4-210 — 10-4-217)***

### **10-4-214. Compliance with Servicemembers Civil Relief Act; additional rights, duties, and obligations not impaired; rights under article additional.**

---

If the rental agreement is with a service member, the owner shall comply with all terms of the Servicemembers Civil Relief Act, 50 U.S.C. Section 3901 et seq. Nothing in this article shall be construed as in any manner impairing or affecting the right of the parties to create additional rights, duties, and obligations in and by virtue of the rental agreement. The rights provided by this article shall be in addition to all other rights allowed by law to a creditor against his or her debtor.

### **History**

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Ga. L. 1982, p. 2286, § 5; Code 1981, § 10-4-214, enacted by Ga. L. 1982, p. 2286, § 7; Ga. L. 2013, p. 555, § 1/SB 61; Ga. L. 2019, p. 145, § 1/HB 25.

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 5 Self-Service Storage Facilities (§§ 10-4-210 — 10-4-217)***

### **10-4-215. Rental agreements entered into before July 1, 2013, not affected.**

All rental agreements entered into before July 1, 2013, and not extended or renewed after that date and the rights and duties and interests flowing from them shall remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this state.

### **History**

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Ga. L. 1982, p. 2286, § 6; Code 1981, § 10-4-215, enacted by Ga. L. 1982, p. 2286, § 7; Ga. L. 2013, p. 555, § 1/SB 61.

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## O.C.G.A. § 10-4-216

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***Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 5 Self-Service Storage Facilities (§§ 10-4-210 — 10-4-217)***

### **10-4-216. Self-service storage facility not residence; no application of public bonded warehouseman provisions.**

---

- (a) No occupant shall use a self-service storage facility for residential purposes.
- (b) The provisions of law relative to bonded public warehousemen shall not apply to any owner of a self-service storage facility.

### **History**

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Code 1981, § 10-4-216, enacted by Ga. L. 2019, p. 789, § 4/SB 97.

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## O.C.G.A. § 10-4-217

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**Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 4 Warehousemen (Arts. 1 — 5) > Article 5 Self-Service Storage Facilities (§§ 10-4-210 — 10-4-217)**

### **10-4-217. Late penalty; calculations; application.**

---

(a) Pursuant to the terms of a rental agreement, an owner may charge and collect a fee from an occupant for the late payment of rent that is to be paid under a rental agreement. Such fee shall be no more than \$20.00 per month for each month there is a late payment of rent or 20 percent of the monthly rent for each month there is a late payment of rent, whichever is greater.

(b) This Code section shall only apply to rental agreements entered into, extended, or renewed, and the late payment of rent occurring, on or after July 1, 2019.

### **History**

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Code 1981, § 10-4-217, enacted by Ga. L. 2019, p. 789, § 4/SB 97.

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