
CHAPTER 347—S.F.No.3194
[Coded in Part]

An act relating to agriculture; licensing of livestock marketing agencies and livestock dealers; requiring bonds and providing for claims against bonds; requiring records and providing for inspection thereof; requiring livestock weighers and providing for a weighing service; providing penalties; amending Minnesota Statutes 1971, Section 239.27; repealing Minnesota Statutes 1971, Sections 239.05, Subdivisions 2, 3, 4, 5, and 6; 239.13; 239.14; 239.15; 239.16; 239.17; 239.18, as amended; 239.19; 239.21; 239.225; and 239.26.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [17A.01] LIVESTOCK MARKET AGENCY AND DEALER LICENSING ACT; CITATION. Sections 1 to 15 may be cited as the Minnesota livestock market agency and dealer licensing act.

Sec. 2. [17A.02] PURPOSE. The purpose of this act is to establish jurisdiction and authority with the Minnesota commissioner of agriculture over livestock marketing practices for the benefit and protection of farmers, producers, and the public, requiring financial responsibility and fair trade practices in livestock dealing and marketing.

Sec. 3. [17A.03] DEFINITIONS. Subdivision 1. As used in sections 1 to 15, the terms defined in this section have the meanings given them.

Subd. 2. DEPARTMENT. "Department" means the Minnesota department of agriculture.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of agriculture or his representative.

Subd. 4. PERSON. "Person" means an individual, partnership, corporation, association, or other form of business enterprise.

Subd. 5. LIVESTOCK. "Livestock" means cattle, sheep, swine, horses, mules, and goats.

Subd. 6. LIVESTOCK MARKET AGENCY. "Livestock market agency" means any person who sells livestock for the account of others, but does not include an occasional or special event or disposal sale.

Subd. 7. LIVESTOCK DEALER. "Livestock dealer" means any person who buys livestock for his own account for purposes of resale or slaughter, or for the account of others, except persons licensed un-

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der Minnesota Statutes, Section 28A.04 who are primarily engaged in the sale of meats at retail and persons operating as frozen food processing plants as defined in Minnesota Statutes, Section 31.185.

Subd. 8. **AGENT.** "Agent" means any individual who is engaged by a livestock dealer to act as his representative.

Subd. 9. **FEEDER PIG MARKET.** "Feeder pig market" means a trading place where producers sell feeder pigs directly to livestock dealers or other farmers.

Subd. 10. **PACKING PLANTS AND SLAUGHTERING HOUSES.** "Packing plants" and "slaughtering houses" means places of business where livestock purchased or acquired is slaughtered.

Subd. 11. **BUYING STATION.** "Buying station" means any stockyard or concentration point, other than a public stockyard, at which livestock is bought and sold or assembled for shipment to a packing plant or a public stockyard, or graded or weighed for the purpose of establishing a basis for sale or reshipment.

Subd. 12. **PUBLIC STOCKYARD.** "Public stockyard" means an assembly point operated as a public livestock market for livestock producers, feeders, market agencies and buyers; providing the services and facilities for loading and unloading, yarding and sale of all classes of livestock, for individuals or organizations granted the privilege of the market by the management of the public stockyards.

Sec. 4. **[17A.04] LICENSES.** Subdivision 1. **LICENSING PROVISIONS.** Licenses shall be issued to livestock market agencies and public stockyards annually and shall expire on December 31 each year, renewable annually thereafter; provided, that livestock market agency licenses shall be required and issued for a six-month period from July 1, 1974, through December 31, 1974, on a prorated fee basis. The license issued to a livestock market agency and public stockyard shall be conspicuously posted at the licensee's place of business. Licenses shall be required for livestock dealers and their agents for the period beginning July 1, 1974, and ending June 30 following and annually thereafter. The license issued to a livestock dealer or the agent of a livestock dealer shall be carried by the person so licensed. The livestock dealer shall be responsible for the acts of his agents. The license issued to a livestock market agency, public stockyard or a livestock dealer or agent of a livestock dealer is not transferable. The operation of livestock market agencies, livestock dealers, agents and packers at a public stockyard are exempt from sections 1 to 9, and 12 to 16.

Subd. 2. **APPLICATION.** Any person desiring to carry on the business of a livestock market agency or livestock dealer, or both, or a public stockyard shall make application to the commissioner on a form or forms provided by the commissioner.

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Subd. 3. FINANCIAL STATEMENT OR VOLUME REPORT. Each new applicant for a license to operate as a livestock market agency or livestock dealer shall file with his application a current balance sheet and financial statement and shall with each subsequent annual renewal application file a report of his business volume for the preceding calendar or fiscal year on a form prescribed by the commissioner, which report shall be for the purpose of determining the amount and adequacy of the applicant's bond. The commissioner may at any time require an applicant or licensee to submit a current balance sheet and financial statement if he deems it necessary for the protection of the public.

Subd. 4. SURETY BONDS REQUIRED. Each livestock market agency and livestock dealer applying for a license under this act shall file with the commissioner a valid and effective bond issued by a surety company licensed to do business in this state, or meeting the requirements of section 5, in the form and amount set forth in section 5. No bond shall be required of a public stockyard or any agent of a bonded livestock dealer. The commissioner may at any time raise or lower bond requirements if it appears that a modification of such bond requirements is justified and in his judgment will protect the public. The bonds of livestock market agencies and dealers whose residence or principal place of business is within the state of Minnesota shall name the commissioner as the trustee. Any license issued under this act shall automatically become void upon the termination of the surety bond covering the licensed operations.

Subd. 5. LICENSE FEE. The applicant shall submit to the commissioner the following applicable fee or fees: (1) \$100 for each livestock market agency and public stockyard license; (2) \$35 for each livestock dealer license; and (3) \$20 for each agent license.

Subd. 6. REFUSAL TO LICENSE. The commissioner shall refuse to issue a license if the applicant has not filed a surety bond in the form and amount required under sections 4 and 5; the commissioner may refuse to issue a license if the applicant (1) has not satisfactorily demonstrated by a current balance sheet and financial statement that his assets exceed his liabilities; (2) has been found by the department to have failed to pay, without reasonable cause, obligations incurred in connection with livestock transactions; or (3) has failed to comply with other statutes or rules and regulations enforced by the commissioner or the Minnesota livestock sanitary board.

Subd. 7. REVOCATION OF LICENSE. Whenever the commissioner finds that any livestock market agency or livestock dealer has violated the provisions of sections 4, 5, 7, or 8, the commissioner may, by order, pursuant to the provisions of Minnesota Statutes, Chapter 15, and this subdivision, revoke the license of the offender. Before any such license shall be revoked, the licensee shall be furnished with a statement of the complaints made against him, and a hearing shall be had before the commissioner upon at least ten days notice to the licensee to determine whether such license shall be revoked, which notice

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may be served either by registered mail addressed to the address of the licensee as shown in his application or in the manner provided by law for the service of a summons. At the time and place fixed for hearing, the commissioner or any official, employee or agent of the department authorized by the commissioner, shall receive evidence, administer oaths, examine witnesses, hear the testimony and thereafter file an order either dismissing the proceedings or revoking the license.

Sec. 5. [17A.05] AMOUNT OF BONDS. Subdivision 1. **LIVE-STOCK MARKET AGENCIES.** The amount of each livestock market agency bond filed with the commissioner shall be not less than \$10,000 or such larger amount as required, based on the commissioner's consideration of the principal's financial statement, the volume of business he reports, or any other factor the commissioner deems pertinent for the protection of the public. Each such bond shall be executed on a Packers and Stockyards Act form and shall contain the condition clause applicable when the principal sells on commission. A bond equivalent in the form of a trust fund agreement executed in accordance with the Packers and Stockyards Act, 1921, as amended, (7 U.S.C. 181 et seq.) shall be acceptable.

Subd. 2. **LIVESTOCK DEALERS.** The amount of each livestock dealer bond filed with the commissioner shall be not less than \$5,000 or such larger amount as required, based on the commissioner's consideration of the principal's financial statement, the volume of business he reports, or any other factor the commissioner deems pertinent for the protection of the public. Each such bond shall contain the condition clause applicable when the principal buys on commission or as a dealer. A livestock dealer's bond shall be executed on a form furnished by the commissioner or in accordance with the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.).

Sec. 6. [17A.06] CLAIMS AGAINST BONDS. Subdivision 1. **FILING OF CLAIMS.** Any person claiming to be damaged by any breach of the conditions of a bond given by a licensee may enter complaint thereof to the commissioner, which complaint shall be a written statement of the facts constituting the complaint, accompanied by documentary proof of his claim against the licensee.

Subd. 2. **HEARING ON CLAIMS.** In case of default by the licensee, the commissioner shall have the power to require the licensee to appear before him at a hearing held for the purpose of determining all liability of the licensee under the terms of his bond, and after said hearing, based on the evidence adduced thereat, the commissioner shall make an order determining and fixing the liability of the principal and of the surety company because of the default of the licensee. If the bond is insufficient to cover the liability of all claimants, the commissioner shall prorate the proceeds of the bond among the claimants on a percentage basis. The order of the commissioner may be enforced by appropriate proceedings in the district court of Ramsey county, and any party aggrieved by the order of the commissioner may appeal to

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said district court in the manner provided for appeal from other proceedings before the commissioner.

Subd. 3. LEGAL NOTICE. Prior to a hearing before the commissioner, he shall notify by certified mail all known potential claimants and publish a notice setting forth the default of the licensee and requiring all claimants to file proof of claim with the commissioner within three months of the date such notice is published or be barred from participating in the proceeds of the bond. Such publication shall be made for three consecutive weeks in a newspaper published at the county seat of the county in which the licensee has his principal place of business. However, no such claim shall be allowed unless it is filed with the commissioner within one year of the date of the alleged breach. Notwithstanding the above provisions, if a livestock market agency or livestock dealer has on file a Packers and Stockyards Act bond and is registered with the Packers and Stockyards Administration, the terms of the bond or that federal agency's regulations will control in determining the time for filing and the admission of claims.

Sec. 7. [17A.07] PROHIBITED CONDUCT. It shall be unlawful for any person to (1) carry on the business of a livestock market agency or livestock dealer without a valid and effective license issued by the commissioner under the provisions of section 4; (2) carry on the business of a livestock market agency or livestock dealer without filing and maintaining a valid and effective surety bond in conformity with sections 4 and 5; (3) carry on the business of a livestock market agency or livestock dealer if he cannot pay his debts as they become due or ceases to pay his debts in the ordinary course of business as they become due; (4) engage in or use any unfair or deceptive practice or device in connection with marketing of livestock; (5) willfully make or cause to be made any false entry or statement of fact in any application, financial statement or report filed with the department under the provisions of sections 4, 5, and 8.

Sec. 8. [17A.08] RECORD KEEPING. Every person shall make and retain such accounts, records, and memoranda necessary to fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the commissioner finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the commissioner may prescribe the manner or form and length of time for retention which such accounts, records, and memoranda shall be kept. The commissioner shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person being investigated or proceeded against.

Sec. 9. [17A.09] FEEDER PIGS MARKETS. The commissioner may, by regulations promulgated in accordance with Minnesota Statutes, Section 15.0412, establish requirements for record making and retention, of livestock purchases and sales by operators of feeder pig

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markets, as he deems necessary and in his judgment will protect the public.

Sec. 10. [17A.10] PACKING PLANTS AND STOCKYARDS, WEIGHERS. The commissioner shall appoint at public stockyards, packing plants, slaughtering houses, or buying stations where the average daily number of livestock slaughtered or handled is 500 head or more, and the commissioner may appoint at public stockyards, packing plants, slaughtering houses, and buying stations, on application from such public stockyard, packing plant, slaughtering house, or buying station, where the average daily number of livestock slaughtered or handled is 250 head or more, but less than 500 head, such weighers as may be necessary for weighing livestock, provided that no weighers shall be appointed at packing plants or slaughtering houses at which the only livestock slaughtered or handled has been previously purchased or acquired, and title or terms of ownership already established. The commissioner shall prescribe and follow such reasonable regulations as he deems necessary for determining such daily average. Such weighers shall weigh all livestock coming to these places for sale, and keep a record thereof. Upon request, the weighers shall furnish the interested parties a certificate setting forth the number of animals weighed and the actual weight of such animal or animals. Such certificate shall be prima facie evidence of the facts therein certified. The scales at all such places on which livestock is weighed shall be constructed and maintained in accordance with the requirements of the state division of weights and measures, and be tested up to the maximum draft that may be weighed thereon, at least once every 90 days, and be in compliance with all the statutory requirements and regulations adopted by the state division of weights and measures pertaining to livestock scales and weighing.

Sec. 11. [17A.11] FEES FOR LIVESTOCK WEIGHING. The commissioner shall prescribe the fee necessary to cover the cost of such weighing, to be assessed and collected from the seller in such manner as the commissioner may prescribe; provided, that the fee assessed be the same, and the manner of collection thereof be uniform at all markets at which the average daily number of head of livestock bought and sold is 250 or more; and provided, further, that if at any location where weighing is performed in accordance with this act and the total annual fees collected are insufficient to pay the cost of such weighing, the annual deficit shall be assessed and collected in such manner as the commissioner may prescribe. Additional moneys arising from the weighing of animals by the commissioner, which have been collected and retained by any person, shall be paid on demand to the commissioner. All moneys collected by the commissioner shall be deposited in the state treasury and credited to the livestock weighing fund, and shall be paid out only on the order of the commissioner and the state's warrant.

Sec. 12. [17A.12] QUALIFICATIONS. No weigher shall, during his term of service, be in any manner financially interested in the han-

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dling, shipping, purchase, or sale of livestock, nor in the employment of any person engaged therein.

Sec. 13. [17A.13] **GROSS MISDEMEANORS.** Any weigher who shall knowingly or carelessly weigh any livestock improperly, or give any false certificate of weight, or accept money or other consideration directly or indirectly for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence or attempt to influence any such weigher in the performance of his duty by preventing his proper access to the scales used in the weighing of livestock, or otherwise, is guilty of a gross misdemeanor.

Sec. 14. [17A.14] **PENALTIES.** Any person, duly licensed or otherwise, who violates the provisions of sections 1 to 15, for which violation a penalty has not been specifically set out, is guilty of a misdemeanor. A second violation within a licensing period is a gross misdemeanor.

Sec. 15. [17A.15] **POWERS AND DUTIES OF THE COMMISSIONER.** The commissioner shall enforce the provisions of this act and shall promulgate, in the manner provided by law, such rules and regulations as he deems necessary or desirable, and may cooperate with any department of state or government, to carry out the provisions of sections 1 to 15. The commissioner or his duly-authorized agent shall have the power to issue subpoenas, administer oaths and affirmations, examine witnesses, receive evidence, and shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation or administrative proceeding.

Sec. 16. Minnesota Statutes 1971, Section 239.27, is amended to read:

239.27 VIOLATIONS. Any person who shall violate any of the provisions of ~~sections 239.13 to 239.21, 239.26, and 239.27, and for which violation no penalty is hereinbefore specified, shall be~~ section 239.20 is guilty of a gross misdemeanor ; ~~and upon conviction punished for each such offense by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for not less than 30 days nor more than one year or by both such fine and imprisonment .~~

Sec. 17. **REPEALER.** Minnesota Statutes 1971, Sections 239.05, Subdivisions 2, 3, 4, 5, and 6; 239.13; 239.14; 239.15; 239.16; 239.17; 239.18, as amended by Laws 1973, Chapters 754, Section 10, and 766, Section 4; 239.19; 239.21; 239.225; and 239.26 are repealed.

Sec. 18. **EFFECTIVE DATE.** This act is effective the day following its final enactment.

Approved March 28, 1974.

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