

CHAPTER 288—S.F.No. 1284

An act relating to agriculture; changing the livestock market agency and dealer licensing act; amending Minnesota Statutes 1990, sections 17A.01; 17A.03, subdivisions 1, 5, and 7; 17A.04, subdivision 1; 17A.14; proposing coding for new law in Minnesota Statutes, chapter 17A.

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

Section 1. Minnesota Statutes 1990, section 17A.01, is amended to read:

17A.01 CITATION.

~~Sections 17A.01 to 17A.15~~ This chapter may be cited as the Minnesota livestock market agency and dealer licensing act.

Sec. 2. Minnesota Statutes 1990, section 17A.03, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** As used in ~~sections 17A.01 to 17A.15~~ this chapter, the terms defined in this section have the meanings given them.

Sec. 3. Minnesota Statutes 1990, section 17A.03, subdivision 5, is amended to read:

Subd. 5. **LIVESTOCK.** "Livestock" means cattle, sheep, swine, horses intended for slaughter, mules, and goats.

Sec. 4. Minnesota Statutes 1990, section 17A.03, subdivision 7, is amended to read:

Subd. 7. **LIVESTOCK DEALER.** "Livestock dealer" means any person, including a packing company, engaged in the business of buying or selling livestock on a regular basis for the person's own account or for the account of others.

"Livestock dealer" does not include:

(a) persons licensed under 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 section 31.185; and

(b) persons engaged in the business of farming, when purchasing livestock for breeding or herd replacement purposes or feeding programs, and when selling the livestock they have owned and raised, fed out or fattened for slaughter in their specific farming program.

Sec. 5. Minnesota Statutes 1990, section 17A.04, subdivision 1, is amended to read:

Subdivision 1. **LICENSING PROVISIONS.** Licenses shall be issued to

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livestock market agencies and public stockyards annually and shall expire on December 31 each year, renewable annually thereafter. 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 each year and ending June 30. 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 the dealer's agents. Licensed livestock market agencies, public stockyards, and livestock dealers shall be responsible for the faithful performance of duty of the public livestock weighers at their places of business. The license issued to a livestock market agency, public stockyard or 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 17A.01 to ~~17A.09~~ 17A.091, and 17A.12 to ~~17A.15~~ 17A.17.

Sec. 6. Minnesota Statutes 1990, section 17A.14, is amended to read:

17A.14 PENALTIES.

Subdivision 1. CRIMINAL PENALTIES. Any person, duly licensed or otherwise, who violates the provisions of sections ~~17A.01 to 17A.15~~ this chapter, for which violation a penalty has not been specifically set out, is guilty of a misdemeanor. Any subsequent violation is a gross misdemeanor.

Subd. 2. CIVIL PENALTIES. (a) The commissioner, as an alternate to misdemeanor prosecution, may impose a civil penalty on a person who violates a statute or rule enforceable by the commissioner. For a first violation, the commissioner may impose a civil penalty of not more than \$500 for each violation. For a second or succeeding violation, the commissioner may impose a penalty of not more than \$1,000 for each violation.

(b) In determining the amount of the civil penalty, the commissioner may consider:

- (1) the willfulness of the violation;
- (2) the gravity of the violation;
- (3) the person's history of past violations;
- (4) the number of violations;
- (5) the economic benefit from the violations; and
- (6) other factors identified in the commissioner's citation.

(c) For a second or succeeding violation, the commissioner shall determine the amount of a penalty by considering the factors in paragraph (b) and:

- (1) similarity between the violations;

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- (2) time elapsed since the last violation; and
- (3) the person's response to the most recent violation.

Sec. 7. [17A.145] **CIVIL PENALTY PROCEDURES.**

Subdivision 1. CITATION. If the commissioner believes that a person has violated this chapter or a rule or order adopted under this chapter, the commissioner shall issue a written citation to the person by personal service or by certified mail. The citation must describe with particularity the nature of the violation, including a reference to the statute, rule, or order alleged to have been violated. In addition, the citation must fix a reasonable time for the abatement of the violation and notify the person of the penalty, if any, proposed to be assessed. The citation must also advise that the person has 30 working days within which to notify the commissioner in writing that the person wishes to contest the citation, proposed penalty assessment, or time allowed for correction. The commissioner may issue notices instead of citations with respect to minor violations if the commissioner believes a notice will best serve the public interest.

Subd. 2. FINAL ORDER. If within 30 working days after receiving the commissioner's notice or citation the person fails to notify the commissioner in writing that the person intends to contest the citation, proposed penalty, assessment, or time allowed for correction in the citation, the citation and assessment as proposed become a final order and are not subject to further review. For good cause shown the commissioner may extend the time period for responding.

Subd. 3. APPEAL. The time allowed for correcting a violation does not begin to run until the entry of a final order if the person has initiated review proceedings under this section in good faith. If the commissioner has reason to believe that a person has failed to correct a violation for which a citation has been issued within the time allowed, the commissioner shall notify the person by certified mail of the failure. The notification must state the penalty proposed to be assessed for the failure under section 17A.14 and must state that the person has 30 working days to notify the commissioner in writing that the person wishes to contest the notification or the proposed penalty assessment. If within 30 working days after receiving the notification the person fails to notify the commissioner in writing that the person intends to contest the notification or proposed penalty assessment, the notification and assessment as proposed become a final order and are not subject to further review. For good cause shown the commissioner may extend the time period for responding.

Subd. 4. CITATION CONTEST. If a person who has received a citation or a proposed penalty assessment notifies the commissioner that the person intends to contest the citation or the proposed penalty assessment within the time limits in subdivisions 2 and 3, the commissioner shall file a complaint with the office of administrative hearings and serve a copy on the respondent by first class mail. The complaint must be served and copies filed within 40 days of receiving the notice of contest. The complaint must set forth all alleged violations and proposed penalties that are contested.

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Subd. 5. CONTESTED CASE HEARING. Notwithstanding chapter 14, after an answer has been timely filed the case must be heard as a contested case except that the report of the administrative law judge is the final decision of the department of agriculture.

Sec. 8. [17A.151] DUTY TO PROSECUTE.

It is the duty of each county attorney or city attorney to whom the commissioner reports a violation of this chapter to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before a violation of this chapter is reported to a county attorney or city attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated must be given appropriate notice and an opportunity to present views before the commissioner or the commissioner's designated agent, either orally or in writing, in person, or by attorney, with regard to the contemplated proceeding.

Presented to the governor May 29, 1991

Signed by the governor June 1, 1991, 4:04 p.m.

CHAPTER 289—H.F.No. 871

An act relating to employment; board of electricity; clarifying definitions; providing for a complaint committee; clarifying and adding duties of the board; providing penalties; amending Minnesota Statutes 1990, sections 326.01, subdivisions 2, 3, 4, 5, 6, 6a, and by adding subdivisions; 326.241, subdivision 2; 326.242, subdivisions 1, 2, 3, 4, 5, 6, 9, 12, and by adding subdivisions; 326.244, subdivisions 4, 5, and by adding a subdivision; 326.245; and 326.246.

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

Section 1. Minnesota Statutes 1990, section 326.01, subdivision 2, is amended to read:

Subd. 2. **CLASS A MASTER ELECTRICIAN.** The term "Class A master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install and, alter, repair and to properly, plan, lay out, and supervise the installation installing, altering, and repairing of electrical wiring, apparatus, and equipment for electric light, heat, power, and other purposes who is licensed as such by the state board of electricity.

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