

CHAPTER 27

FOODS; WHOLESALE PRODUCE DEALERS

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 27.01 **DEFINITIONS.** Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases shall, for the purposes of sections 27.02 to 27.15, be given the meanings subjoined to them.

Subdivision 2. **Produce.** The term "produce" means and includes the natural products of the farm, except hay, grain, straw, and live stock other than veal; the natural products of the orchard, vineyard, garden, and apiary, raw and manufactured; the raw and finished products of the dairy, creamery, cheese factory, condensery, and dry milk factory; the products of live stock, including wool, mohair, skins, hides, and meats; veal; poultry and poultry products; game and fish; and the timber products of the farm produced upon farms and sold as part of the farming operations thereof.

Subdivision 3. **Person.** The term "person" means an individual, firm, corporation, copartnership, or association.

Subdivision 4. **Voluntary extension of credit.** The term "voluntary extension of credit" means a written agreement between the seller and the licensee wherein the time of payment for the purchase price of produce is extended beyond the due date.

Subdivision 5. **Due date.** The term "due date" means seven days from the date of delivery of produce by the seller to the licensee in the case of a sale; in all cases where produce is consigned seven days from the date the sale is made by the broker or handler, except as to creameries and ice-cream manufacturers, where the due date means 15 days following the monthly day of accounting subsequent to deliveries following the date fixed by each creamery for such accounting.

[1931 c. 394 s. 2; 1939 c. 251 s. 2] (6240-18½a)

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 27.02 **WHOLESALE DEALERS OF PRODUCE.** For the purposes of sections 27.01 to 27.15, any person who shall buy or sell or contract to buy or sell, or who shall handle in wholesale lots for the purpose of re-sale, or who shall handle on account of or as an agent for another, any produce, and any person who shall similarly engage in the business of assembling and trucking produce without an established place of business, shall be deemed a dealer at wholesale. Cooperative associations having not more than 40 per cent of non-member patrons shall not be deemed dealers at wholesale within the meaning of sections 27.01 to 27.15. No person shall be deemed a dealer at wholesale within the meaning of sections 27.01 to 27.15 who purchases, and pays in cash, in full at the time of purchase, Minnesota seasonal grown products of the farm, orchard, vineyard, garden, and apiary for transportation to destinations outside of this state and who, within 72 hours thereafter, transports the same to its destination outside of this state.

[1931 c. 394 s. 1; 1939 c. 251 s. 1; 1941 c. 318] (6240-18½)

27.03 **DEALERS LICENSED.** No person shall engage in, or purport to be engaged in, or hold himself out as being engaged in, the business of a dealer at wholesale, or as being a dealer at wholesale, unless he shall be licensed to carry on such business by the commissioner.

[1931 c. 394 s. 3] (6240-18½b)

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27.04 LICENSES; FEES; BONDS. License to engage in the business of a dealer at wholesale within the state shall be issued by the commissioner to such reputable persons as apply therefor, pay the prescribed fee, and comply with the conditions herein specified.

The application shall be in writing, accompanied by the prescribed fee and under oath, and shall set forth the place or places where the applicant intends to carry on the business for which the license is desired, the estimated amount of business to be done monthly, the amount of business done during the preceding year, if any, the full names of the persons constituting the firm, in case the applicant is a copartnership, the names of the officers of the corporation and where incorporated, if a corporation, and a financial statement showing the value and character, in a general way, of the assets and the amount of liabilities of the applicant.

The applicant shall execute and file with the commissioner a bond to the State of Minnesota with sureties to be approved by the commissioner, the amount and form thereof to be fixed by the commissioner, conditioned for the faithful performance of his duties as a dealer at wholesale; provided, that any and all bonds heretofore executed and filed with the commissioner by dealers at wholesale containing substantially the requirements of sections 27.04 and 27.05 are hereby confirmed and approved, for the observance of all laws relating to the carrying on of the business of a dealer at wholesale, for the payment when due of the purchase price of produce purchased by him when notice of default is given the commissioner within 30 days after the due date; provided, that the bond shall not cover transactions wherein it appears to the commissioner that a voluntary extension of credit has been given on the produce by the seller to the licensee beyond the due date, for the prompt settlement and payment of all claims and charges due the state for services rendered or otherwise, for the prompt reporting of sales, as required by law, to all persons consigning produce to the licensee for sale on commission, and the prompt payment to the persons entitled thereto of the proceeds of such sales, less lawful charges, disbursements, and commissions. The bond shall cover all wholesale produce business transacted, in whole or in part, within the state, and the license, or a certified copy thereof, shall be kept posted in the office of the licensee at each place within the state where he transacts business. All licenses shall expire May 31st of each year. The fee for each license shall be \$12.50, and for each certified copy thereof \$1.00. When the licensee shall sell, dispose of, or discontinue his business during the lifetime of his license he shall, at the time such action is taken, notify the commissioner, in writing, and shall upon demand produce before the commissioner a full statement of all assets and liabilities as of the date of transfer or discontinuance of the business.

The applicant shall file with the commissioner a schedule of his commissions and charges for services in connection with produce handled on account of or as agent for another.

All moneys collected from license fees shall be deposited in the state treasury in a separate fund known as the wholesale dealers' enforcement fund and used by the produce inspection division of the department of agriculture, dairy, and food for the purpose of supervising and regulating the provisions of sections 27.01 to 27.15. Such moneys shall only be expended upon the order of the commissioner.

[1931 c. 394 s. 4; 1935 c. 186 s. 1] (6240-18½c)

27.05 ADDITIONAL BONDS. The commissioner, when he is of the opinion that any bond theretofore given by any licensee is inadequate for the proper protection of the public, may require the licensee to give additional bonds in such amounts as from time to time he may determine and direct, with sureties to be approved by the commissioner, and conditioned as set forth in section 27.04. For the purpose of fixing or changing the amount of such bonds, the commissioner may require from a licensee verified statements of his business, and if the licensee fails to furnish such information or to furnish a new bond, when directed by the commissioner so to do, the commissioner may forthwith suspend, and, after ten days' notice and opportunity to be heard, revoke his license.

[1931 c. 394 s. 5] (6240-18½d)

27.06 COMPLAINTS FILED WITH COMMISSIONER. Any person claiming himself to be damaged by any breach of the conditions of a bond given by a licensee, as herein provided, may enter complaint thereof to the commissioner, which complaint shall be a written statement of the facts constituting the complaint. Upon filing the complaint in the manner herein provided, the commissioner shall investi-

gate the charges made and, at his discretion, order a hearing before him, giving the party complained of notice of the filing of the complaint and the time and place of the hearing. At the conclusion of the hearing the commissioner shall report his findings and render his conclusions, upon the matter complained of, to the complainant and the respondent in each case, who shall have 15 days following in which to make effective and satisfy the commissioner's conclusions. If this settlement is not effected within this time, either party, if aggrieved by any condition of the bond, may, upon first obtaining the approval of the commissioner, commence and maintain an action against the principal and sureties on the bond of the party complained of as in any civil action, provided, no action against the bondsmen of a licensee shall in any instance be maintained without the written approval of the commissioner, which shall be attached to and made a part of the original complaint in the action. Upon commencing the action a copy thereof shall be filed in the office of the commissioner. The record of the hearing before the commissioner shall be competent evidence in any court having jurisdiction. If the licensee has become liable to more than one person by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay the entire liability to all persons entitled to the protection of the bond, the penalty of the bond as against the sureties shall be apportioned among the several claimants. In all cases where the liability of the licensee exceeds the amount of his bond, or where the amount of the claims does not exceed the amount of the bond, and the claimants so request in writing, the commissioner shall commence an action for the recovery of the amount claimed, and the surety or bondsmen upon the bond shall be liable to the extent of the amount recovered, not exceeding the amount of the bond, and when recovered such amount shall be deposited with the commissioner, who shall, in the same action, subject to the approval of the court, pass upon and allow or disallow all claims which may be presented to him for payment or apportioned thereunder, and to effect the purposes herein may employ counsel, the expense thereof to be paid out of the amount recovered on the bond.

[1931 c. 394 s. 6; 1935 c. 186 s. 2] (6240-18½e)

27.07 GRADES ESTABLISHED. The commissioner shall have power to establish grades on all produce and when deemed necessary shall provide for inspecting and grading produce subject to sale at such marketing points within the state as the commissioner may designate, and provide for the issuing of certificates of inspection showing the grade, quality, and conditions of the produce, and may charge and collect a reasonable fee therefor, a schedule thereof to be adopted and published from time to time. Such certificates of inspection shall be prima facie evidence in all courts of this state as to the grade, quality, and condition of the produce at the time the inspection was made. When any person having produce desires to have it inspected he may apply to the commissioner for the service of an inspector and, if it appear to the commissioner that the volume of the produce is sufficient to justify the request, he may grant the service upon terms and conditions to be fixed by him. Any inspection service so ordered and maintained shall be self-supporting. The commissioner may require a deposit, prior to the establishment of the inspection service, in amount equal to the costs thereof as estimated by him and he may further require that such deposits be renewed, from time to time, in such manner that a permanent account shall be maintained, sufficient at all times to pay the costs of such inspection service for a period of not less than 15 days in advance. Moneys placed in the hands of the commissioner for this purpose shall be placed in a separate account, to be known as the produce inspection account, and the sums such persons shall contribute to each account shall be kept separate on the books of the commissioner. No money shall be paid from this account for inspection services rendered to any person in excess of the moneys on hand accredited to his account. This money shall be deposited in the state treasury in the same manner as other departmental receipts are deposited, credited to the account herein created, and paid out only upon order of the commissioner. When any such agreement shall terminate by action of either party thereto, the commissioner shall withdraw from such account the full amount of all such bills payable for services rendered and return to the depositor any moneys remaining to his credit at the time such agreement terminates. Any sums deposited in the state treasury under the provisions of sections 27.01 to 27.15 are hereby appropriated for the purposes set forth therein.

[1931 c. 394 s. 7] (6240-18½f)

27.08 DEALERS MAY FILE BRANDS OR LABELS. Any person producing, manufacturing, or handling, in this state, any of the products mentioned in section 27.01, except cheese and butter, and preparing, packing, and offering the same for sale, may file with the commissioner a brand or label which shall thereafter be the exclusive property of the applicant, and he may place upon this brand or label such descriptive or locative matter as shall be approved by the commissioner. The commissioner may issue to such applicant for brands and labels a permit to use the same, subject to such regulations and restrictions as to quality of product so branded as the commissioner may determine. The brand or label shall be recorded in the office of the commissioner and any person who shall, without authority of the commissioner, use any such brand or label, or shall brand and label therewith products or commodities of a quality below the standard permitted under the brand or label, shall be subject to the penal provisions of section 27.19.

[1931 c. 394 s. 8] (6240-18½g)

27.09 INSPECTION CERTIFICATE. When produce is ready for sale, or is on its way to market, the owner thereof, or the conveyor, or the prospective buyer, or any other interested party, may call for and shall be entitled to inspection of such produce and to an inspection certificate, as provided for in section 27.07.

[1931 c. 394 s. 9] (6240-18½h)

27.10 PRODUCE EXAMINED, WHEN. When produce is shipped to or received by a dealer at wholesale for handling, purchase, or sale in this state at any market point therein giving inspection service, as provided for in section 27.07, and the dealer at wholesale finds the same to be in a spoiled, damaged, unmarketable, or unsatisfactory condition, unless both parties shall waive inspection before sale or other disposition thereof, he shall cause the same to be examined by an inspector assigned by the commissioner for that purpose, and the inspector shall execute and deliver a certificate to the applicant thereof stating the day, the time and place of the inspection, and the condition of the produce and mail or deliver a copy of the certificate to the shipper thereof.

[1931 c. 394 s. 10] (6240-18½i)

27.11 SHIPMENTS ON CONSIGNMENT. When any dealer at wholesale to whom produce has been shipped or consigned for sale on a commission basis or on consignment or under any circumstances wherein the title to the produce remains with the shipper, has received the same, he shall, within a reasonable time thereafter, make a written report to the shipper, which report shall include the exact time of arrival, the quantity, quality, and price per unit of the produce and at the same time he shall pay the shipper the net amount due him.

[1931 c. 394 s. 11] (6240-18½j)

27.12 SHIPPER MAY COMPLAIN TO COMMISSIONER. When a shipper, after demand therefor, shall have received no remittance or report of sale, or shall be dissatisfied with the remittance, sale, or report, he may complain in writing to the commissioner, who shall investigate the matter complained of.

[1931 c. 394 s. 12] (6240-18½k)

27.13 INVESTIGATION OF COMPLAINTS. The commissioner is authorized to receive complaints against any persons dealing in, shipping, transporting, storing, or selling produce, and shall have authority to make any and all necessary investigations relative to the handling of, or storing, shipping, or dealing in produce at wholesale and he shall, at all times, have access to all buildings, yards, warehouses, storage and transportation facilities in which any produce is kept, stored, handled, or transacted. For the purpose of enforcing the provisions of sections 27.01 to 27.15, the commissioner shall have the authority, upon complaint being filed with him for any alleged violation of the provisions thereof, or the regulations issued thereunder, to forthwith suspend and, upon ten days' notice and opportunity to be heard, revoke and cancel any license issued by him, and the commissioner shall have the power to revoke or cancel the license of any dealer who shall violate any of the provisions thereof. He shall have, and is hereby granted, full authority to issue subpoenas requiring the attendance of witnesses before him, with books, papers, and other documents, articles, or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matter under investigation, and shall have full authority to administer oaths and to take testimony; and the commissioner shall thereafter give the complainant a written report of the investigation. Such report shall be prima facie evidence of the matters therein contained. All parties

disobeying the orders or subpoenas of the commissioner shall be guilty of contempt as in proceedings in district courts of the state and may be punished in like manner.

[1931 c. 394 s. 13] (6240-18½l)

27.14 RULES AND REGULATIONS. The commissioner, from time to time, shall make and publish uniform rules and regulations, not inconsistent with law, for carrying out and enforcing the provisions of sections 27.01 to 27.15 and governing the rates charged by, and the buying, selling, advertising and trading practices of, dealers at wholesale, which rules and regulations shall be filed in the office of the commissioner and published twice in a legal newspaper of general circulation published at the capital of the state; and, from and after the tenth day succeeding the date of the last such publication, such rules and regulations shall have the force and effect of law. An affidavit of such publication shall be kept on file in the office of the commissioner. A copy of such rules and regulations, certified by the commissioner, shall be prima facie evidence of the facts therein contained and of the due making and publication of such rules and regulations.

[1931 c. 394 s. 14] (6240-18½m)

27.15 COOPERATION WITH UNITED STATES DEPARTMENT OF AGRICULTURE AND OTHER AUTHORITIES. The commissioner may cooperate with the United States department of agriculture and with other federal authorities and with the state and municipal authorities of this and other states, and do and perform such acts and things as may be necessary and proper in carrying out the purpose of sections 27.01 to 27.15.

[1931 c. 394 s. 15] (6240-18½n)

Am 143-102-1 **27.16 BUYERS OF DOMESTIC FOWLS; DEALERS' REGISTERS.** Every person who engages in the business of buying chickens, turkeys, or other domestic fowl of any kind shall keep and maintain a complete record of all such transactions in a ledger or other suitable book of account permanently bound, which, for the purposes of sections 27.16 to 27.18, shall be known as such dealer's register. In this register he shall enter a complete record of each purchase of chickens, turkeys, or other domestic fowl to which he was a party; and shall show the name and address of the person from whom the same was bought, the date of the purchase, and the number, kind, species, and a general description of all such chickens, turkeys, or other domestic fowl involved in the transaction.

[1927 c. 319 s. 1] (6240-19)

27.17 REGISTER PRIMA FACIE EVIDENCE. Every register made or kept in compliance with the provisions of sections 27.16 to 27.18 shall be prima facie evidence of the truth and accuracy of the facts therein stated or appearing as required thereby. Every such register shall at all times be open to inspection and examination by any peace officer or any public official charged with the duty of law enforcement, as often as and when required by him.

[1927 c. 319 s. 2] (6240-20)

27.18 FAILURE TO KEEP REGISTERS; FALSE ENTRY THEREIN. Any person who fails to keep such record or causes to be entered or recorded any false, untruthful, deceptive, or misleading statement or data in any register required to be kept by sections 27.16 to 27.18, or who changes, alters, destroys, mutilates, injures, secretes, conceals, or withholds from inspection any such register; or any part thereof, shall be guilty of a misdemeanor. This misdemeanor shall be deemed separate, apart from, and in addition to, any other crime or offense against the law committed by such person in connection with such transaction.

[1927 c. 319 s. 3] (6240-21)

27.19 VIOLATIONS; PENALTIES. Any person subject to the provisions of sections 27.01 to 27.15 who shall:

- (1) Operate or advertise to operate as a dealer at wholesale without a license; or
- (2) Make any false statement or report as to the grade, condition, markings, quality, or quantity of produce received or delivered, or act in any manner so as to deceive the consignor or purchaser thereof; or
- (3) Refuse to accept any shipment contracted for by him, unless such refusal is based upon the showing of a state inspection certificate secured with reasonable promptness after the receipt of such shipment showing that the kind and quality of produce is other than that purchased or ordered by him; or
- (4) Fail to account for produce or to make settlement therefor within the time herein limited; or who shall violate or fail to comply with the terms or conditions of any contract entered into by him for the purchase or sale of produce; or

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(5) Purchase for his own account any produce received on consignment, either directly or indirectly, without the consent of the consignor; or

(6) Issue any false or misleading market quotations, or who shall cancel any quotations during the period advertised by him; or

(7) Make or collect any commission or charge in excess of that shown in his schedule filed with the commissioner; or

(8) Increase the sales charges on produce shipped to him by means of "dummy" or fictitious sales; or

(9) Receive produce from foreign states or countries for sale or re-sale, either within or without the state, and give the purchaser the impression, through any method of advertising or description, that the produce is of Minnesota origin; or

(10) Whoever shall violate any provisions of sections 27.01 to 27.15, or any rule or regulation made or published thereunder by the commissioner, shall be guilty of a misdemeanor and his license may be forthwith suspended, revoked, or canceled by the commissioner, upon ten days' notice and opportunity to be heard; but, upon conviction of any such offense, or upon conviction of any federal court for violation of the federal statutes relative to the fraudulent use of the mails or of other criminal acts pertaining to the conduct of his business, it shall be the duty of the commissioner forthwith to revoke and cancel the license of the person so convicted.

[1931 c. 394 s. 16] (6240-18½o)

27.20 ENFORCEMENT. The commissioner shall be charged with the enforcement of the provisions of sections 27.01 to 27.15 and of the rules and regulations made and published thereunder. Upon complaint made it shall be the duty of the county attorney to prosecute all cases arising in his county for violation of sections 27.01 to 27.15, or of the rules or regulations made and published thereunder. The commissioner and his duly authorized agents and inspectors appointed for the purpose of enforcing the provisions of sections 27.01 to 27.15 shall have the power of police officers in this enforcement.

[1931 c. 394 s. 17; 1935 c. 186 s. 3] (6240-18½p)