

# MINNESOTA STATUTES 1975 SUPPLEMENT

## WHOLESALE PRODUCE DEALERS 27.01

### CHAPTER 27. WHOLESALE PRODUCE DEALERS

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#### 27.001 Public policy.

The legislature recognizes that perishable agricultural products are important sources of revenue to a large number of citizens of this state engaged in producing, processing, manufacturing, or selling such products and that such products cannot be repossessed in case of default. It is therefore declared to be the policy of the legislature that certain financial protection be afforded those who are producers on the farm; farmer cooperatives which are not wholesale produce dealers as described in section 27.01, subdivision 8; and licensed wholesale produce dealers, including the retail merchant purchasing produce directly from farmers. The provisions of this chapter which relate to perishable agricultural commodities shall be liberally construed to achieve these ends and shall be administered and enforced with a view to carrying out the above declaration of policy.

[1975 c 227 s 1]

#### 27.01 Definitions.

[For text of subd 1, see M.S.1974]

**Subd. 2. Produce.** The term "produce" includes:

- (a) Perishable fresh fruits and vegetables;
- (b) Milk and cream and products manufactured therefrom;
- (c) Poultry and poultry products;
- (d) Wool and perishable unmaturred feedstuffs.

[For text of subds 3 and 4, see M.S.1974]

**Subd. 5. Due date.** The term "due date" means ten 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 ten days from the date the sale is made by the broker or handler, except as to milk processing plants, where the due date means 15 days following the monthly day of accounting subsequent to deliveries following the date fixed by each milk processing plant for such accounting.

[For text of subds 6 and 7, see M.S.1974]

**Subd. 8. Wholesale produce dealer.** (a) The term "wholesale produce dealer" or "dealer at wholesale" includes:

- (1) Any person who buys or contracts to buy produce in wholesale lots for resale;
- (2) Any person engaging in the business of a broker or agent, who handles or deals in produce for a commission or fee;
- (3) Any truck owner or operator who buys produce in wholesale lots for

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resale;

(4) Any person engaged in the business of a cannery, food manufacturer, or food processor, and purchases produce as a part of such business.

(b) The term "wholesale produce dealer" or "dealer at wholesale" does not include:

(1) Any truck owner and operator who regularly engages in the business of transporting freight, including produce, for a transportation fee only, and who does not purchase, contract to purchase, or sell produce;

(2) Any marketing cooperative association in which substantially all of the voting stock is held by patrons who patronize the association and in which at least 75 percent of the business of the association is transacted with member or stockholder patrons;

(3) Any person who purchases, and pays cash in full at the time of purchase, Minnesota seasonally grown produce defined in subdivision 2, clause (a);

(4) Any person who handles and deals in only canned, packaged, processed produce or packaged dairy products, all of which are no longer deemed to be perishable;

(5) Retail merchants who purchase produce, defined in subdivision 2, directly from farmers, which in the aggregate does not exceed \$500 per month.

[1975 c 227 s 2-4]

[For text of subd 9, see M.S.1974]

## 27.03 Dealer licensed.

No person except a wool dealer 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 and bonded to carry on such business by the commissioner.

[1975 c 227 s 5]

## 27.04 Application for license.

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 of the assets and the amount of liabilities of the applicant.

Applications shall be filed annually to be reviewed semi-annually. Upon special order, the commissioner may require persons engaged in the business of a dealer at wholesale to file at the time and in the manner the commissioner directs, sworn or unsworn reports or answers in writing to specific questions on any matter which the commissioner may investigate.

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For the purposes of this section, the commissioner or his authorized agents shall have authority to audit and review any records relating to the financial condition of any dealer at wholesale or any transactions between such dealer and those entitled to the protections of this chapter, if such records are in the possession of or under the care, custody, or control of such dealer or his authorized agent. No person shall willfully make any false entries or statements or fail to make full and true entries and statements in any report, answer required, document demanded under this section. No person shall remove from the state, mutilate, or alter any document relevant to any investigation, hearing, or proceeding conducted under chapter 27.

[1975 c 227 s 6]

### 27.041 Bonds; licenses.

**Subdivision 1. Bonds.** The applicant required to be bonded shall execute and file with the commissioner a surety bond to the state of Minnesota to be approved by the commissioner, the amount, form, and effective date to be fixed by the commissioner with the maximum not to exceed \$500,000. In lieu of said surety bond the commissioner may accept a duly executed letter of credit. Said bond or letter of credit shall be conditioned on the faithful performance of the applicant's duties as a dealer at wholesale including: (1) the observance of all laws relating to the carrying on of the business of a dealer at wholesale; (2) the payment when due of the purchase price of produce purchased by him when notice of default is given the commissioner within 40 days after the due date, unless 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; (3) the prompt settlement and payment of all claims and charges due the state for services rendered or otherwise; (4) the prompt reporting of sales as required by law to all persons consigning produce to the licensee for sale on commission, and; (5) the prompt payment to the persons entitled thereto of the proceeds of the sales, less lawful charges, disbursements, and commissions. The bond shall cover all wholesale produce business subject to the protection outlined in section 27.001 which is: (1) transacted within this state; or (2) transacted in part within this state and in part within the states and provinces contiguous with this state.

**Subd. 2. Licenses.** The license, or certified copy thereof, shall be kept posted in the office of the licensee at each place within the state where he transacts business. Every license shall expire June 30 following its issuance and thereafter be renewed July 1 each year. Any license issued under this subdivision shall automatically be void upon the termination of the surety bond covering the licensed operation. The fee for each license shall be based on the following schedule:

Penalty for		Dollar Volume of Business
License Fee	Late Renewal	
\$ 25	\$ 8	\$10,000 or less per month
\$ 50	\$15	Over \$10,000 to \$50,000 per month
\$ 75	\$22	Over \$50,000 to \$100,000 per month
\$100	\$30	Over \$100,000 per month

A fee of \$5 shall be charged for each certified copy of a license. The commissioner shall make appropriate license fee adjustments for up to one year from July 1, 1975 for persons required to be licensed hereunder, who hold validly issued licenses as of the effective date of Laws 1975, Chapter 227 under the provisions of law amended or repealed herein. When the licensee sells, disposes of, or discontinues his business during the lifetime of his license he shall at the time the action is taken, notify the commissioner in writing, and 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.

All moneys collected from license fees shall be deposited in the state treasury.

[1975 c 227 s 7]

## **27.06 WHOLESALE PRODUCE DEALERS**

### **27.06 Complaints to commissioner, hearing; action on bond.**

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 investigate 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. Each claimant or his authorized agent shall appear at the hearing in order to verify the complaint filed unless, in the opinion of the commissioner, the complaint provides adequate information to allow the commissioner to waive appearance. In case the appearance is waived, the commissioner shall so notify the claimant. At the conclusion of the hearing the commissioner shall report his findings and render his conclusions and order, upon the matter complained of, to the complainant and the respondent in each case, who shall have 15 days following in which to comply with the commissioner's order. If this order is not complied with within this time, either party, if aggrieved by any condition of the bond, may, upon first obtaining the approval of the commissioner within 30 days after the time aforesaid, 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 surety of a licensee shall in any instance be maintained without the prior 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 order of the commissioner has not been complied with and no action against the surety of such licensee be then pending, the commissioner may commence an action for the recovery of the amounts claimed, and the surety or bondsman 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.

[1975 c 227 s 8]

### **27.07 Grades established; inspection.**

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 appears 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 deposits are sufficient at all time to pay the costs of such inspection service for a period of not less than 15

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days in advance. When any such agreement shall terminate by action of either party thereto, the commissioner shall pay to the depositor any moneys remaining to his credit after the deduction of the costs at the time such agreement terminates.

[1975 c 204 s 97]

### 27.19 Violations, penalties.

Any person subject to the provisions of sections 27.01 to 27.15 and 27.19 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, as defined in section 27.069, 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, as defined in section 27.069, 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

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

(8) Receive decorative forest products and the products of farms and waters 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

(9) Whoever shall violate any provisions of sections 27.01 to 27.15 and 27.19, 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 in any federal court for violation of the federal statutes relative to the fraudulent use of the mails, or conviction in any court of other criminal acts under any federal food or drug statute, or any statute of this state administered by the commissioner of agriculture, pertaining to the conduct of his business, the commissioner may forthwith revoke and cancel the license of the person so convicted. Each day a person violates any provisions of sections 27.01 to 27.15 and 27.19, or any rule or regulation published thereunder by the commissioner, shall constitute a separate offense.

[1975 c 227 s 9]

## CHAPTER 28A. CONSOLIDATED FOOD LICENSING LAW

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28A.04 License required; applications; renewals.	28A.15 Exclusions.
28A.05 Classification.	

### 28A.03 Definitions.

As used in sections 28A.01 to 28A.16 the terms defined in this section