

## 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.

**History:** 1969 c 471 s 1; 1975 c 227 s 1

**27.01 DEFINITIONS.**

Subdivision 1. **Terms.** Except where otherwise provided, for the purpose of sections 27.02 to 27.15 and 27.19 to 27.20 the terms defined in this section have the meanings given to them.

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.

Subd. 3. **Person.** The term "person" means an individual, firm, corporation, co-partnership, or association.

Subd. 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.

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.

Subd. 6. **Milk processing plant.** The term "milk processing plant" means any establishment where any or all of the following are manufactured: Butter, cheese, dry milk, or ice cream, or where milk or cream, or any product of milk, is processed or prepared for market.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of the department of agriculture.

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 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.

Subd. 9. **Farmer.** The term "farmer" means any individual or partnership engaged in the business of producing or growing agricultural produce whether individually, collectively, or as part of a joint growing venture; or any corporation whose principal business is the production of such products.

**History:** 1931 c 394 s 2; 1939 c 251 s 2; 1943 c 479 s 1; 1953 c 345 s 1; 1961 c 113 s 1; 1961 c 128 s 9; 1961 c 163 s 1; 1965 c 787 s 1; 1969 c 471 s 2; 1975 c 227 s 2-4 (6240-18 1/2a)

**27.02** [ Repealed, 1969 c 471 s 5 ]

### **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.

**History:** 1931 c 394 s 3; 1975 c 227 s 5 (6240-18 1/2b)

### **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.

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 case, 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.

**History:** 1931 c 394 s 4; 1935 c 186 s 1; 1955 c 233 s 1; 1955 c 846 s 1; 1957 c 561 s 1; 1959 c 17 s 1; 1969 c 471 s 3; 1969 c 1148 s 6; 1975 c 227 s 6 (6240-18 1/2c)

#### 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 License Fee	for Late Renewal	Dollar Volume of Business
\$ 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.

**History:** 1975 c 227 s 7

### 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. Failure of the licensee to furnish such information or to give a new or additional bond is cause for suspension of his license for as long as the failure continues, or revocation of the license, on ten days' notice to the licensee and opportunity to be heard. Where the public interest requires it the commissioner may suspend the license after such notice pending hearing and decision.

**History:** 1931 c 394 s 5; 1955 c 233 s 2 (6240-18 1/2d)

### 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 have the matter heard as a contested case pursuant to chapter 15. No hearing shall be required if all affected parties to a bond claim proceeding waive their right to a hearing and agree to accept the commissioner's determination as to the validity of the claims and the allocation of the proceeds of the bond.

**History:** 1931 c 394 s 6; 1935 c 186 s 2; 1955 c 233 s 3; 1961 c 163 s 3; 1969 c 471 s 4; 1975 c 227 s 8; 1977 c 346 s 4 (6240-18 1/2e)

### 27.069 DEFINITION OF PRODUCE FOR GRADING AND INSPECTION LAWS.

For the purposes of Minnesota Statutes 1961, Sections 27.07 to 27.10, and acts amendatory thereof, the term "produce" means decorative forest products and the products of farms and waters of this state.

**History:** 1965 c 787 s 2

### 27.07 GRADES ESTABLISHED; INSPECTION.

Subdivision 1. 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.

Subd. 2. The commissioner shall 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.

Subd. 3. 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 fixed by him and this section.

Subd. 4. The commissioner may require an agreement, prior to the establishment of the inspection service, requiring the user of the inspection service to at all times have on deposit with the department a sufficient amount of money to pay the estimated costs of such inspection service for a period of not less than 15 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.

Subd. 5. Fees for inspection shall be determined by the commissioner and shall be reviewed and adjusted every six months. In determining the fees to be charged, the commissioner shall take into consideration fees charged in other states offering similar inspection services to the end that the fees charged will provide a competitive marketing position for Minnesota produce.

**History:** 1931 c 394 s 7; 1955 c 232 s 1; 1961 c 163 s 4; 1975 c 204 s 97; 1977 c 234 s 1 (6240-18 1/2f)

## **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, and the applicant 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, 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.

**History:** 1931 c 394 s 8; 1961 c 163 s 5 (6240-18 1/2g)

## **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.

**History:** 1931 c 394 s 9 (6240-18 1/2h)

## **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.

**History:** 1931 c 394 s 10 (6240-18 1/2i)

#### 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.

**History:** 1931 c 394 s 11 (6240-18 1/2j)

#### 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.

**History:** 1931 c 394 s 12 (6240-18 1/2k)

#### 27.13 INVESTIGATION OF COMPLAINTS; SUSPENSION OR REVOCATION OF LICENSE.

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 and 27.19, 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, or upon information furnished by an inspector of the department of agriculture, to suspend while violation continues or revoke any license issued by him upon ten days notice to the licensee and an opportunity to be heard. Where the public interest requires it the commissioner may suspend a license after such notice pending hearing and decision. 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.

**History:** 1931 c 394 s 13; 1955 c 232 s 2; 1961 c 113 s 1; 1961 c 163 s 6 (6240-18 1/2l)

**27.14 RULES AND REGULATIONS.**

In the manner provided by law, 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 27.19 and governing the rates charged by, and the buying, selling, advertising and trading practices of, dealers at wholesale.

**History:** 1931 c 394 s 14; 1961 c 163 s 7 (6240-18 1/2m)

**27.15 COOPERATION WITH 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 and 27.19.

**History:** 1931 c 394 s 15; 1955 c 232 s 3; 1961 c 163 s 8 (6240-18 1/2n)

**27.16** [ Renumbered 29.201 ]

**27.17** [ Renumbered 29.203 ]

**27.18** [ Renumbered 29.205 ]

**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 con-

viction 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.

**History:** 1931 c 394 s 16; 1955 c 232 s 4; 1959 c 17 s 2; 1961 c 113 s 1; 1961 c 163 s 9; 1965 c 787 s 3; 1975 c 227 s 9 (6240-18 1/2o)

#### **27.20 ENFORCEMENT.**

The commissioner shall be charged with the enforcement of the provisions of sections 27.01 to 27.15 and 27.19 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 and 27.19, 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 and 27.19 shall have the power of police officers in this enforcement.

**History:** 1931 c 394 s 17; 1935 c 186 s 3; 1955 c 232 s 5; 1961 c 163 s 10 (6240-18 1/2p)