

**27.19 VIOLATIONS, PENALTIES.**

Subdivision 1. **Prohibited acts.** (a) A person subject to the provisions of this section and sections 27.01 to 27.14 may not:

- (1) operate or advertise to operate as a dealer at wholesale without a license;
- (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 to deceive a consignor or purchaser;
- (3) refuse to accept a shipment contracted for by the person, unless the refusal is based upon the showing of a state inspection certificate secured with reasonable promptness after the receipt of the shipment showing that the kind and quality of produce, as defined in section 27.069, is other than that purchased or ordered by the person;
- (4) fail to account or make a settlement for produce within the required time;
- (5) violate or fail to comply with the terms or conditions of a contract entered into by the person for the purchase, production, or sale of produce;
- (6) purchase for a person's own account any produce received on consignment, either directly or indirectly, without the consent of the consignor;
- (7) issue a false or misleading market quotation, or cancel a quotation during the period advertised by the person;
- (8) increase the sales charges on produce shipped to the person by means of "dummy" or fictitious sales;
- (9) receive decorative forest products and the products of farms and waters from foreign states or countries for sale or resale, either within or outside of the state, and give the purchaser the impression, through any method of advertising or description, that the produce is of Minnesota origin;
- (10) fail to notify in writing all suppliers of produce of the protection afforded to suppliers by the person's licensee bond, including: availability of a bond, notice requirements, and any other conditions of the bond;
- (11) make a false statement to the commissioner on an application for license or bond or in response to written questions from the commissioner regarding the license or bond;
- (12) commit to pay and not pay in full for all produce committed for. A processor may not pay an amount less than the full contract price if the crop produced is satisfactory for processing and is not harvested for reasons within the processor's control. If the processor sets the date for

planting, then bunching, unusual yields, and a processor's inability or unwillingness to harvest must be considered to be within the processor's control. Under this clause growers must be compensated for passed acreage at the same rate for grade and yield as they would have received had the crop been harvested in a timely manner minus any contractual provision for green manure or feed value. Both parties are excused from payment or performance for crop conditions that are beyond the control of the parties; or

(13) discriminate between different sections, localities, communities, or cities, or between persons in the same community, by purchasing produce from farmers of the same grade, quality, and kind, at different prices, except that price differentials are allowed if directly related to the costs of transportation, shipping, and handling of the produce and a person is allowed to meet the prices of a competitor in good faith, in the same locality for the same grade, quality, and kind of produce. A showing of different prices by the commissioner is prima facie evidence of discrimination.

(b) A separate violation occurs with respect to each different person involved, each purchase or transaction involved, and each false statement.

Subd. 2. **Civil penalty.** (a) A person who violates a provision of this chapter or rules adopted under this chapter is subject to a civil penalty not to exceed \$500 per violation.

(b) In addition, the person's license may be suspended, revoked, or canceled by the commissioner, upon ten days' notice and opportunity to be heard. Action under this subdivision is a civil penalty.

(c) A civil penalty amount received by the commissioner under this section must be deposited in the wholesale produce dealer account.

Subd. 3. **Criminal penalty.** (a) A person who willfully violates a provision of this chapter or rules adopted under this chapter is guilty of a misdemeanor.

(b) Upon conviction, or upon conviction in a federal court for violation of the federal statutes relative to fraudulent use of the mails or in any court of other criminal acts under a federal food or drug statute or a statute of this state administered by the commissioner of agriculture pertaining to the conduct of the person's business, the commissioner may immediately revoke and cancel the license of the person convicted, without further hearing.

Subd. 4. **Settlements.** (a) The commissioner or the commissioner's authorized representative may enter into a written agreement with a person in settlement of an alleged violation whether or not a hearing is held. An agreement must be construed as a "no contest" pleading and may

encompass sanctions, penalties, and affirmative actions that are mutually satisfactory and are consistent with the intent and purpose of this chapter.

(b) The agreement is final and conclusive with respect to the action, except upon a showing of fraud or malfeasance or misrepresentation of a material fact. The matter agreed upon in the agreement may not be reopened or modified by an officer, employee, or agent of the state. In an action, suit, or proceeding, the agreement and any determination or payment made under the agreement is final and conclusive and may not be annulled, modified, set aside, or disregarded.

**History:** (6240-18 1/2o) 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; 1985 c 248 s 70; 1986 c 444; 1990 c 530 s 18; 1991 c 254 art 3 s 14; 1997 c 7 art 1 s 12; 2000 c 477 s 25