

CHAPTER 530—S.F.No. 2037

An act relating to agriculture; amending the definition of farm products; changing provisions related to wholesale produce dealers; imposing fees; providing for a wholesale dealers' trust; requiring mediation and arbitration in certain produce contracts; providing parent company liability; authorizing seizure of vehicles; imposing penalties; regulating livestock packers and stockyards; appropriating money; amending Minnesota Statutes 1988, sections 17.14, subdivision 3; 27.01, subdivisions 2, 5, 8, and by adding a subdivision; 27.03, subdivision 1, and by adding subdivisions; 27.04; 27.041; 27.06; and 27.19; proposing coding for new law in Minnesota Statutes, chapters 17A; and 27; proposing coding for new law as Minnesota Statutes, chapter 31B; repealing Minnesota Statutes 1988, section 27.05.

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

Section 1. Minnesota Statutes 1988, section 17.14, subdivision 3, is amended to read:

Subd. 3. **FARM PRODUCTS.** The term "Farm products" means ~~and includes~~ butter, milk, cream, butterfat, cheese, other dairy products, honey, eggs, poultry, poultry products, perishable fresh fruits and vegetables, and all livestock and products of livestock such as wool, mohair, hides, and meats.

Sec. 2. Minnesota Statutes 1988, section 27.01, subdivision 2, is amended to read:

Subd. 2. **PRODUCE.** The term "Produce" ~~includes~~ means:

- (a) (1) perishable fresh fruits and vegetables;
- (b) (2) milk and cream and products manufactured ~~therefrom~~ from milk and cream; and
- (c) (3) poultry and poultry products;
- (d) ~~Wool and perishable unmatured feedstuffs.~~

Sec. 3. Minnesota Statutes 1988, section 27.01, subdivision 5, is amended to read:

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~~ if the due date is not specified in the contract. For purposes of this definition a signed invoice with a due date is a contract.

If produce is consigned, "due date" means 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~~ that accounting.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 1988, section 27.01, subdivision 8, is amended to read:

Subd. 8. **WHOLESALE PRODUCE DEALER.** (a) ~~The term~~ "Wholesale produce dealer" or "dealer at wholesale" ~~includes~~ means:

(1) ~~Any~~ a person who buys or contracts to buy produce in wholesale lots for resale;

(2) ~~Any~~ a person engaging in the business of a broker or agent, who handles or deals in produce for a commission or fee;

(3) ~~Any~~ a truck owner or operator who buys produce in wholesale lots for resale; and

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

(b) ~~The term~~ For purposes of paragraph (a), "wholesale lots" means purchases from Minnesota sellers must total more than \$12,000 annually.

(c) "Wholesale produce dealer" or "dealer at wholesale" does not include:

(1) ~~Any~~ a 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~~ a 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~~ a person who purchases, ~~and pays cash in full at the time of purchase,~~ Minnesota seasonally grown produce defined in subdivision 2, ~~clause (a) perishable fresh fruits and vegetables, and pays cash, including lawful money of the United States, a cashier's check, a certified check, or a bank draft;~~

(4) ~~Any~~ a person who handles and deals in only canned, packaged, or processed produce or packaged dairy products; ~~all of which that~~ are no longer deemed to be perishable as determined by the commissioner by rule; or

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

Sec. 5. Minnesota Statutes 1988, section 27.01, is amended by adding a subdivision to read:

Subd. 10. **SELLER.** "Seller" means a farmer or wholesale produce dealer, whether the person is the owner of the produce or produces it for another person who holds title to it.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 6. Minnesota Statutes 1988, section 27.03, subdivision 1, is amended to read:

Subdivision 1. **LICENSE.** ~~No A person except a wool dealer shall~~ may not engage in, or purport to be engaged in, or hold out as being engaged in, the business of a dealer at wholesale, or as being a dealer at wholesale, unless licensed and bonded ~~to carry on such business~~ by the commissioner.

Sec. 7. Minnesota Statutes 1988, section 27.03, is amended by adding a subdivision to read:

Subd. 3. **BROKERS.** (a) A wholesale produce dealer operating as a broker, upon negotiating the sale of farm products, shall issue to both buyer and seller a written memorandum of sale before the close of the next business day showing price, date of delivery, quality, and other details of the transaction.

(b) The memorandum required in paragraph (a) must have an individual identifying number printed upon it. Numbers must be organized and printed on the memoranda so that each memorandum can be identified and accounted for sequentially. Unused or damaged memoranda must be retained by the broker for accounting purposes.

(c) A wholesale produce dealer operating as a broker may not alter the terms of a transaction specified on the original memorandum of sale required in paragraph (a) without the consent of both parties to the transaction. Upon making a change, the broker is required to issue a clearly marked corrected memorandum of sale indicating the date and time when the adjustment or change was made. The broker shall transmit the corrected memorandum to both the buyer and seller before the close of the next business day.

Sec. 8. Minnesota Statutes 1988, section 27.03, is amended by adding a subdivision to read:

Subd. 4. **PAYMENTS FOR PRODUCE.** If there is a contract between a seller and a wholesale produce dealer to buy produce, the wholesale produce dealer must pay for the produce that is delivered to the wholesale produce dealer at the time and in the manner specified in the contract with the seller. If the due date is not set by the contract, the wholesale produce dealer shall pay for the produce by ten days after delivery or taking possession of the produce. A payment received after the due date must include payment of 12 percent annual interest prorated for the number of days past the due date.

Sec. 9. Minnesota Statutes 1988, section 27.04, is amended to read:

27.04 APPLICATION FOR LICENSE.

Subdivision 1. **ISSUANCE.** The commissioner shall issue a wholesale produce dealer's 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

New language is indicated by underline, deletions by ~~strikeout~~.

submitting an application, pay paying the prescribed fee, and comply complying with the conditions herein specified in this section.

Subd. 2. APPLICATION CONTENTS. (a) The application ~~shall~~ must be in writing, accompanied by the prescribed fee ~~and under oath~~, and shall set forth state:

(1) the place or places where the applicant intends to carry on the business for which the license is desired;

(2) the estimated amount of business to be done monthly;

(3) the amount of business done during the preceding year, if any;

(4) the full names of the persons constituting the firm; ~~in case the applicant is a copartnership,~~ for a partnership, and for a corporation the names of the officers of the corporation and where incorporated; ~~if a corporation, and;~~

(5) a financial statement showing the value and character of the assets and the amount of liabilities of the applicant;

(6) the income and expenses for the most recent year;

(7) the names and addresses of all shareholders who own at least five percent of a corporate applicant's shares of stock;

(8) whether the applicant or any of its officers, partners, or agents have been involved in any litigation relating to the business of a wholesale produce dealer in the previous five years; and

(9) any other information relevant to the conduct of its business as a wholesale produce dealer in the previous five years, as the commissioner may require.

(b) If a contract is used in a transaction, a copy of the contract must also be filed with the commissioner.

(c) Financial data required of an applicant under this section is classified as private data with regard to data on individuals and as nonpublic data with regard to data not on individuals under section 13.02.

Subd. 3. FILING. Applications shall be filed annually ~~to be reviewed semiannually.~~ 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 the commissioner's 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

New language is indicated by underline, deletions by ~~strikeout~~.

are in the possession of or under the case, custody, or control of such dealer or the dealer's 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.

Sec. 10. [27.0405] INVESTIGATIONS.

Subdivision 1. PRODUCTION AND REVIEW OF INFORMATION. (a) 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.

(b) For the purposes of this section, the commissioner or the commissioner's authorized agents may audit and review any records relating to the financial condition of any dealer at wholesale and any transactions between the dealer and persons entitled to the protections of this chapter, if the records are in the possession of or under the case, custody, or control of the dealer or the dealer's authorized agent.

Subd. 2. FALSE AND INCOMPLETE INFORMATION. A person may not willfully make any false entries or statements or fail to make full and true entries and statements in a report, answer required, or document demanded under this chapter.

Subd. 3. PRESERVATION OF DOCUMENTS. A person may not remove from the state, mutilate, or alter a document relevant to an investigation, hearing, or proceeding conducted under chapter 27.

Sec. 11. Minnesota Statutes 1988, section 27.041, is amended to read:

Subdivision 1. **BONDS.** (a) 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 determined~~ by the commissioner with the maximum not to exceed \$500,000 \$1,000,000. In lieu of ~~said the~~ surety bond the commissioner may accept a duly executed letter of credit. ~~Said The~~ 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 the applicant when notice of default is given the commissioner within 40 days after the due date,~~ unless it appears to the commissioner that a voluntary

New language is indicated by underline, deletions by ~~strikeout~~.

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.

(b) 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 and sold by Minnesota sellers.

Subd. 1a. ADDITIONAL BONDS. (a) The commissioner, after determining a bond given by a licensee is inadequate for the proper protection of the public, may require the licensee to give additional bonds in amounts as determined by the commissioner, with sureties to be approved by the commissioner, and conditioned as provided in section 27.041.

(b) To set or change the amount of a bond, the commissioner may require a licensee to provide verified statements of the licensee's business.

(c) Failure of the licensee to furnish the information or to give a new or additional bond is cause for:

(1) suspension of the licensee's license for as long as the failure continues; or

(2) revocation of the license, on ten days' notice to the licensee and opportunity to be heard.

(d) If the commissioner determines it is in the public's interest the commissioner may suspend the license after giving notice and holding a hearing.

Subd. 2. LICENSES. (a) The license, or a certified copy of the license, must be kept posted in the office of the licensee at each place within the state where the licensee transacts business. Every A wholesale produce dealer may not appoint, delegate, or authorize a person, firm, or company to purchase produce unless a certified copy, identification card, or truck decal has been issued at the request of the wholesale produce dealer to that person, firm, or company acting as the buyer or agent.

(b) A license shall expire expires June 30 following its issuance and thereafter must be renewed July 1 of each year. Any

New language is indicated by underline, deletions by ~~strikeout~~.

(c) A license issued under this subdivision is automatically void upon the termination of the surety bond covering the licensed operation.

(d) The fee for each license shall be based on the following schedule:

License Fee	Penalty for Late Renewal	Dollar Volume of Business
\$30	\$10	\$10,000 or less per month
\$60	\$15	Over \$10,000 to \$50,000 per month
\$300	\$75	Over \$50,000 to \$100,000 per month
\$400	\$100	Over \$100,000 per month

must include a \$50 registration fee and an additional fee of .025 percent of the total annual dollar amount of produce purchased the previous year from sellers within the state of Minnesota subject to this chapter. Fees may not exceed \$1,500 per license. In addition, a fee of \$20 shall be charged for each certified copy of a license, \$5 for each license identification card, and \$5 \$10 for each license identification truck decal. 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.

(e) A penalty amounting to ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.

(f) A licensee who sells, disposes of, or discontinues the licensee's business during the lifetime of a license 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.

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

Sec. 12. Minnesota Statutes 1988, section 27.06, is amended to read:

27.06 COMPLAINTS TO COMMISSIONER, HEARING; ACTION ON BOND.

Any A person claiming to be damaged by any a breach of the conditions of a bond given by a licensee, as herein provided, may enter submit a complaint thereof to the commissioner within 40 days after the due date, which. The complaint shall must be a written statement of the facts constituting the complaint. Upon filing the After receiving a filed complaint in the manner herein provided, the commissioner shall investigate the charges made and may have the matter heard as a contested case pursuant to chapter 14. 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

New language is indicated by underline, deletions by ~~strikeout~~.

of the claims and the allocation of the proceeds of the bond, if an affected party requests a hearing.

Sec. 13. [27.131] **MEDIATION AND ARBITRATION.**

A contract for produce between a buyer and a seller must contain language providing for resolution of contract disputes by either mediation or arbitration. If there is a contract dispute, either party may make a written request to the department for mediation or arbitration, as specified in the contract to facilitate resolution of the dispute.

Sec. 14. [27.133] **PARENT COMPANY LIABILITY.**

If a wholesale produce dealer is a subsidiary of another corporation, partnership, or association, the parent corporation, partnership, or association is liable to a seller for the amount of any unpaid claim or contract performance claim if the wholesale produce dealer fails to pay or perform according to the terms of the contract and this chapter.

Sec. 15. [27.137] **DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in this section apply to this section and section 16.

Subd. 2. COMMISSIONER. "Commissioner" means the commissioner of agriculture.

Subd. 3. DUE DATE. "Due date" has the definition given in section 27.01, subdivision 5.

Subd. 4. PERSON. "Person" means an individual, partnership, corporation, firm, or association.

Subd. 5. PROCEEDS. "Proceeds" means whatever is received upon the sale, exchange, collection, or transfer of produce, products of produce, or proceeds from the produce or products of produce.

Subd. 6. PRODUCE. "Produce" means perishable fruits and vegetables, milk and cream and products manufactured from milk and cream, and poultry and poultry products.

Subd. 7. PRODUCTS OF PRODUCE. "Products of produce" means products derived from produce through manufacturing, processing, or packaging.

Subd. 8. SELLER. "Seller" means a farmer or wholesale produce dealer, whether the person is the owner of the produce or produces it for another person who holds title to the produce.

Subd. 9. TRUST ASSETS. "Trust assets" means produce, products of produce, and proceeds from the produce or products of produce.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 10. WHOLESALE PRODUCE DEALER. "Wholesale produce dealer" has the meaning given in section 27.01, subdivision 8, and includes the person whether or not the person is licensed.

Sec. 16. [27.138] WHOLESALE PRODUCE DEALERS' TRUST.

Subdivision 1. TRUST ESTABLISHMENT AND MAINTENANCE. (a) The produce and products of produce of a wholesale produce dealer and proceeds are held in trust for the benefit of unpaid sellers.

(b) The trust assets are to be maintained as a nonsegregated floating trust. Commingling of the trust assets is contemplated.

(c) The wholesale produce dealer must maintain the trust assets in a manner that makes the trust assets freely available to satisfy the amounts owed to unpaid sellers and may not divert trust assets in a manner that impairs the ability of unpaid sellers to recover amounts due.

(d) A wholesale produce dealer must maintain the trust assets in trust until payment has been made in full to unpaid sellers. Payment is not made if a seller receives a payment instrument that is dishonored.

(e) A wholesale produce dealer holds trust assets in trust for the seller except that the wholesale produce dealer may transfer title to trust assets if the proceeds of the transfer are maintained as trust assets. Until a seller is paid, a wholesale produce dealer does not transfer title to trust assets:

(1) in a transaction made to another wholesale produce dealer;

(2) in a transaction intended to impair the ability of unpaid sellers to recover amounts due; or

(3) for which the value is inadequate to satisfy filed beneficiaries notices.

Subd. 2. SELLERS' RIGHTS TO TRUST ASSETS. (a) An unpaid seller may recover trust assets for the net amount unpaid after the due date after allowing deductions of contemplated expenses or advances made in connection with the transaction. An amount is considered unpaid if a seller receives a payment instrument that is dishonored.

(b) An unpaid seller may recover trust assets after filing a beneficiaries notice with the wholesale produce dealer to whom the produce was transferred, the commissioner, and the appropriate filing office under section 336.9-401 as if the trust were a security interest in the trust assets by 40 days after the due date for the payment to the seller or 40 days after a payment instrument to the seller for the produce is dishonored, whichever is later.

Subd. 3. BENEFICIARIES NOTICE. (a) A beneficiaries notice must be in writing and in a form prescribed by the commissioner after consultation with the secretary of state.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The beneficiaries notice must contain:

(1) the name and address of the seller;

(2) the name and address of the wholesale produce dealer maintaining the trust assets;

(3) the produce, amount of produce, amount to be paid the seller, and the due date of transactions that are unpaid or, if appropriate, the date a payment instrument was dishonored; and

(4) a description of the trust assets.

(c) The filing officer shall enter on the beneficiaries notice the time of day and date of filing. The filing officer shall accept filings, amendments, and terminations of a beneficiaries notice and charge the same filing fees as provided in section 336.9-403 for a financing statement. A beneficiaries notice is void and may be removed from the filing system 18 months after the date of filing. The beneficiaries notice may be physically destroyed 30 months after the date of filing.

Subd. 4. PRIORITY OF UNPAID SELLERS' INTERESTS IN TRUST ASSETS. (a) The unpaid sellers' interest in trust assets is paramount to all other liens, security interests, and encumbrances in the trust assets. An unpaid seller who recovers trust assets recovers them free of any liens, security interests, or encumbrances.

(b) If the trust assets are inadequate to pay unpaid sellers the amount due, the unpaid sellers shall share proportionately in the trust assets.

Subd. 5. RECOVERY ACTIONS. An action to recover trust assets may be brought in district court in a county where trust assets are located after the beneficiaries notice is filed. The beneficiaries notice may be amended, except the amount due, by leave of the court in furtherance of justice. An action to recover trust assets is barred if it is not brought by 18 months after the date the beneficiaries notice is filed.

Subd. 6. TERMINATIONS OF BENEFICIARIES NOTICE. A seller must terminate a beneficiaries notice by ten days after the amount due for the wholesale produce dealer is paid. The commissioner may terminate a beneficiaries notice upon request and demonstration by the wholesale produce dealer that the amounts due under the beneficiaries notice have been paid.

Sec. 17. [27.185] SEIZURE AND CONFISCATION OF MOTOR VEHICLES.

Subdivision 1. SEIZURE. (a) A sheriff on request of the commissioner must seize all motor vehicles in the name of the state that are used to sell or transport produce in violation of this chapter.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. PROCEDURE FOR CONFISCATION OF PROPERTY SEIZED. The sheriff must hold the seized property, subject to the order of the court having jurisdiction where the offense was committed. The property held is confiscated when the commissioner complies with this section and the person from whom it was seized is convicted of the offense.

Subd. 3. COMPLAINT AGAINST PROPERTY. The commissioner shall file with the court a separate complaint against the property held. The complaint must identify the property, describe its use in the violation, and specify the time and place of the violation. A copy of the complaint must be served upon the defendant or the owner of the property.

Subd. 4. RELEASE OF PROPERTY AFTER POSTING BOND. At any time after seizure of the property specified in this section, the property must be returned to the owner or person having the legal right to possession upon execution of a valid bond to the state with a corporate surety. The bond must be approved by a judge of the court of jurisdiction, conditioned to abide by an order and judgment of the court and to pay the full value of the property at the time of seizure. The bond must be for \$100 or for a greater amount not more than twice the value of the property seized.

Subd. 5. COURT ORDER. (a) If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the person legally entitled to it.

(b) Upon conviction of the person, the court shall issue an order directed to any person that may have any right, title, or interest in, or lien upon, the seized property. The order must describe the property and state that it was seized and that a complaint against it has been filed. The order shall require a person claiming right, title, or interest in, or lien upon, the property to file with the court administrator an answer to the complaint, stating the claim, within ten days after the service of the order. The order shall contain a notice that if the person fails to file an answer within the time limit, the property may be ordered sold by the commissioner.

(c) The court order must be served upon any person known or believed to have any right, title, interest, or lien in the same manner as provided for service of a summons in a civil action, and upon unknown persons by publication, in the same manner as provided for publication of a summons in a civil action.

Subd. 6. COURT ORDERED SALE AFTER NO ANSWER. If an answer is not filed within the time provided in subdivision 5, the court administrator shall notify the court and the court shall order the commissioner to sell the property. The net proceeds of the sale shall be deposited in the state treasury and credited to the game and fish fund.

Subd. 7. HEARING AFTER ANSWER. If an answer is filed within the time provided in subdivision 5, the court shall schedule a hearing within ten to 30 days after the time expired for filing the answer. The court, without a jury,

New language is indicated by underline, deletions by ~~strikeout~~.

shall determine whether any of the property was used in a violation specified in the complaint and whether the owner had knowledge or reason to believe that the property was being used, or intended to be used, in the violation. The court shall order the commissioner to sell the property that was unlawfully used with knowledge of the owner and to return to the owner property that was not unlawfully used with the knowledge of the owner. If the property is to be sold, the court shall determine the priority of liens against the property and whether the lienholders had knowledge that the property was being used or was intended to be used. Lienholders that had knowledge of the property's use in the violation are not to be paid. The court order must state the priority of the liens to be paid.

Subd. 8. PROCEEDS OF SALE. After determining the expense of seizing, keeping, and selling the property, the commissioner must pay the liens from the proceeds according to the court order. The remaining proceeds shall be deposited in the state treasury and credited to the general fund.

Subd. 9. CANCELLATION OF SECURITY INTERESTS. A sale under this section cancels all liens on and security interests in the property sold.

Sec. 18. Minnesota Statutes 1988, section 27.19, is amended to read:

27.19 VIOLATIONS, PENALTIES.

Subdivision 1. PROHIBITED ACTS. Any (a) A person subject to the provisions of this section and sections 27.01 to 27.15 who shall may not:

(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 a consignor or purchaser thereof;
or

(3) refuse to accept any a shipment contracted for by the person, unless such the refusal is based upon the showing of a state inspection certificate secured with reasonable promptness after the receipt of such 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; or

(4) fail to account or make a settlement for produce or to make settlement therefor within the required time herein limited; or who shall

(5) violate or fail to comply with the terms or conditions of any a contract entered into by the person for the purchase or sale of produce; or

(6) purchase for the a person's own account any produce received on consignment, either directly or indirectly, without the consent of the consignor;
or

New language is indicated by underline, deletions by ~~strikeout~~.

~~(6)~~ (7) issue ~~any a~~ false or misleading market ~~quotations~~ quotation, or who shall cancel ~~any quotations~~ a quotation during the period advertised by the person; or

~~(7)~~ (8) increase the sales charges on produce shipped to the person by means of "dummy" or fictitious sales; or

~~(8)~~ (9) receive decorative forest products and the products of farms and waters from foreign states or countries for sale or resale, either within or ~~without~~ outside of 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 this section and sections 27.01 to 27.15, or any rule made or published thereunder by the commissioner, shall be guilty of a misdemeanor and the person's 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 the person's business, the commissioner may forthwith revoke and cancel the license of the person so convicted. Each day a person violates any provisions of this section and sections 27.01 to 27.15, or any rule published thereunder by the commissioner, shall constitute a separate offense. (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; 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.

New language is indicated by underline, deletions by ~~strikeout~~.

(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.

Sec. 19. [17A.036] CUSTODIAL ACCOUNT FOR SHIPPER PROCEEDS.

Every market agency engaged in selling livestock on a commission or agency basis in this state shall establish and maintain a separate bank account designated as "custodial account for shippers proceeds."

Sec. 20. [31B.01] CITATION.

This chapter is known and may be cited as the "Minnesota packers and stockyards act."

Sec. 21. [31B.02] DEFINITIONS.

Subdivision 1. SCOPE. The definitions in this section apply to this chapter.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. COMMISSIONER. "Commissioner" means the commissioner of agriculture.

Subd. 3. DEALER. "Dealer" means a person, other than a market agency in the business of buying or selling livestock, either on the person's own account or as the employee or agent of the vendor or purchaser.

Subd. 4. LIVESTOCK. "Livestock" means live or dead cattle, sheep, swine, horses, mules, or goats.

Subd. 5. LIVESTOCK PRODUCTS. "Livestock products" means products and by-products other than meats and meat food products of the slaughtering and meat-packing industry derived in whole or in part from livestock.

Subd. 6. MARKET AGENCY. "Market agency" means a person engaged in the business of (1) buying or selling livestock on a commission basis, or (2) furnishing stockyard services and includes a person who sells or offers for sale livestock located in this state by satellite video auction.

Subd. 7. MEAT FOOD PRODUCTS. "Meat food products" means edible products and by-products of the slaughtering and meat-packing industry.

Subd. 8. PACKER. "Packer" means a person in the business of (1) buying livestock for purposes of slaughter, (2) manufacturing or preparing meats or meat food products for sale or shipment, or (3) marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor.

Subd. 9. STOCKYARD. "Stockyard" means a place, establishment, or facility commonly known as a stockyard conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other enclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment.

Subd. 10. STOCKYARD OWNER. "Stockyard owner" means a person in the business of conducting or operating a stockyard.

Subd. 11. STOCKYARD SERVICES. "Stockyard services" means services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling of livestock.

Sec. 22. [31B.03] REPORTING REQUIREMENTS.

A packer, stockyard owner, market agency, and dealer and grain and feed businesses with livestock contracts shall file annually with the commissioner a copy of the annual report form of the federal packers and stockyards regulations filed with the federal packers and stockyards administration and any additional information that may be required on a form prescribed by the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

The report and any additional information must be filed with the commissioner not later than April 15 following the end of the calendar year or, if the records are kept on a fiscal year basis, not later than 90 days after the close of the fiscal year.

The commissioner shall require: (1) a packer to annually complete a form showing the maximum capacity of each of the packer's packing plants; and (2) a copy of each contract a packer has entered into with a livestock producer and each agreement that will become part of the contract that a packer has with a livestock producer for the purchase or contracting of livestock.

Sec. 23. [31B.04] PROMPT PAYMENT FOR PURCHASE OF LIVESTOCK.

Subdivision 1. KIND OF PAYMENT; TIME REQUIRED. A packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of its possession, deliver to the seller or the seller's authorized representative the full amount of the purchase price. If a packer, market agency, or dealer is purchasing livestock for slaughter, that person shall, before the close of the next business day following purchase of livestock and transfer of its possession, actually deliver at the point of transfer of possession to the seller or the seller's authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or "grade and yield" basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price. If the seller or a duly authorized representative is not present to receive payment at the point of transfer of possession, the packer, market agency, or dealer shall wire funds or place a check in the United States mail for the full amount of the purchase price properly addressed to the seller within the time limits specified in this section, and that action complies with the requirement for prompt payment.

Subd. 2. WAIVER. Notwithstanding subdivision 1 and subject to terms and conditions the commissioner may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before the purchase or sale, to effect payment in a manner other than that required in subdivision 1. The agreement must be disclosed in the records of the market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

Subd. 3. DELAY IN PAYMENT OR ATTEMPT TO DELAY. Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds under this section, or otherwise for the purpose of or resulting in extending the normal period of payment for the livestock is an "unfair practice" in violation of this chapter.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 24. **[31B.05] UNFULFILLED CONTRACT TO BUY LIVESTOCK.**

A packer who has committed either orally or in writing to buy more livestock than the packer's plant can process and who cannot fulfill the commitment to the producer within 30 days of the delivery date of the contract is subject to denial, suspension, or revocation of the packer's license.

Sec. 25. **[31B.06] PACKER AND PROCESSOR ACCOUNTING REQUIREMENTS.**

Hog, cattle, sheep, and dairy processors with annual sales greater than \$10,000,000 are required to conduct all financial transactions relating to a contract feeding operation through a separate and exclusive bank account. This separate account is subject to audit and inspection at any reasonable time by the commissioner.

Grain and feed businesses with annual sales greater than \$10,000,000 are required to conduct all financial transactions relating to contract feeding of hogs, cattle, sheep, or dairy cows through a separate and exclusive bank account. This separate account is subject to audit and inspection at any reasonable time by the commissioner.

Sec. 26. **APPROPRIATION.**

\$15,000 is appropriated from the general fund to the commissioner of agriculture to administer and enforce sections 27.001 to 27.06, and sections 27.11 to 27.19.

Sec. 27. **REPEALER.**

Minnesota Statutes 1988, section 27.05, is repealed.

Sec. 28. **EFFECTIVE DATE.**

This act is effective July 1, 1990, except section 11, subdivision 2, is effective the day following final enactment and applies to licenses issued or renewed under that subdivision.

Presented to the governor April 24, 1990

Signed by the governor April 26, 1990, 11:16 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.