

## CHAPTER 17A

# LIVESTOCK MARKET AGENCY AND DEALER LICENSING ACT

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### 17A.01 CITATION.

Sections 17A.01 to 17A.15 may be cited as the Minnesota livestock market agency and dealer licensing act.

**History:** 1974 c 347 s 1

### 17A.02 PURPOSE.

The purpose of Laws 1974, Chapter 347 is to establish jurisdiction and authority with the Minnesota commissioner of agriculture over livestock marketing practices for the benefit and protection of farmers, producers, and the public, requiring financial responsibility and fair trade practices in livestock dealing and marketing.

**History:** 1974 c 347 s 2

### 17A.03 DEFINITIONS.

Subdivision 1. As used in sections 17A.01 to 17A.15, the terms defined in this section have the meanings given them.

Subd. 2. **Department.** "Department" means the Minnesota department of agriculture.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or his representative.

Subd. 4. **Person.** "Person" means an individual, partnership, corporation, association, or other form of business enterprise.

Subd. 5. **Livestock.** "Livestock" means cattle, sheep, swine, horses, mules, and goats.

Subd. 6. **Livestock market agency.** "Livestock market agency" means any person who sells consigned livestock for the account of others, but does not include an occasional or special event or disposal sale.

Subd. 7. **Livestock dealer.** "Livestock dealer" means any person, including a packing company, who buys or sells livestock for his own account or for the account of others, except persons buying or selling livestock related to a normal farming operation, and persons licensed under section 28A.04 who are primarily engaged in the sale of meats at retail and persons operating as frozen food processing plants as defined in section 31.185.

Subd. 8. **Agent.** "Agent" means any individual who is engaged by a livestock dealer to act as his representative.

Subd. 9. **Feeder pig market.** "Feeder pig market" means a trading place where producers sell feeder pigs directly to livestock dealers or other farmers.

Subd. 10. **Packing plants and slaughtering houses.** "Packing plants" and "slaughtering houses" means places of business where livestock purchased or acquired is slaughtered.

Subd. 11. **Buying station.** "Buying station" means any stockyard or concentration point, other than a public stockyard, at which livestock is bought and sold or assembled for shipment to a packing plant or a public stockyard, or graded or weighed for the purpose of establishing a basis for sale or reshipment.

Subd. 12. **Public stockyard.** "Public stockyard" means an assembly point operated as a public livestock market for livestock producers, feeders, market agencies and buyers; providing the services and facilities for loading and unloading, yarding and sale of all classes of livestock, for individuals or organizations granted the privilege of the market by the management of the public stockyards.

**History:** 1974 c 347 s 3; 1977 c 299 s 1,2

#### 17A.04 LICENSES.

Subdivision 1. **Licensing provisions.** Licenses shall be issued to livestock market agencies and public stockyards annually and shall expire on December 31 each year, renewable annually thereafter. The license issued to a livestock market agency and public stockyard shall be conspicuously posted at the licensee's place of business. Licenses shall be required for livestock dealers and their agents for the period beginning July 1 each year and ending June 30. The license issued to a livestock dealer or the agent of a livestock dealer shall be carried by the person so licensed. The livestock dealer shall be responsible for the acts of his agents. The license issued to a livestock market agency, public stockyard or a livestock dealer or agent of a livestock dealer is not transferable. The operation of livestock market agencies, livestock dealers, agents and packers at a public stockyard are exempt from sections 17A.01 to 17A.09, 17A.12 to 17A.15, and 239.27.

Subd. 2. **Application.** Any person desiring to carry on the business of a livestock market agency or livestock dealer, or both, or a public stockyard shall make application to the commissioner on a form or forms provided by the commissioner.

Subd. 3. **Financial statement or volume report.** Each new applicant for a license to operate as a livestock market agency or livestock dealer shall file with his application a current balance sheet and financial statement and shall with each subsequent annual renewal application file a report of his business volume for the preceding calendar or fiscal year on a form prescribed by the commissioner, which report shall be for the purpose of determining the amount and adequacy of the applicant's bond. The commissioner may at any time require an applicant or licensee to submit a current balance sheet and financial statement if he deems it necessary for the protection of the public.

Subd. 4. **Surety bonds required.** Each livestock market agency and livestock dealer applying for a license under Laws 1974, Chapter 347 shall file with the commissioner a valid and effective bond issued by a surety company licensed to do business in this state, or meeting the requirements of section 17A.05, in the form and amount set forth in section 17A.05. No bond shall be required of a public stockyard or any agent of a bonded livestock dealer. The commissioner may at any time raise or lower bond requirements if it appears that a modification of such bond requirements is justified and in his judgment will protect the public. The bonds of livestock market agencies and dealers whose residence or principal place of business is within the state of Minnesota shall name the commissioner as the trustee. Any license issued under Laws 1974, Chapter 347 shall automatically become void upon the termination of the surety bond covering the licensed operations.

Subd. 5. **License fee.** The applicant shall submit to the commissioner the following applicable fee or fees: (1) \$100 for each livestock market agency and public stockyard license; (2) \$35 for each livestock dealer license; and (3) \$20 for each agent license.

Subd. 6. **Refusal to license.** The commissioner shall refuse to issue a license if the applicant has not filed a surety bond in the form and amount required under sections 17A.04 and 17A.05; the commissioner may refuse to issue a license if the applicant (1) has not satisfactorily demonstrated by a current balance sheet and financial statement that the applicant's assets exceed his liabilities; (2) has been found by the department to have failed to pay, without reasonable cause, obligations incurred in connection with livestock transactions; or (3) has failed to comply with other statutes or rules enforced by the commissioner or the board of animal health.

Subd. 7. **Revocation of license.** Whenever the commissioner finds that any livestock market agency or livestock dealer has violated the provisions of sections 17A.04, 17A.05, 17A.07, or 17A.08, the commissioner may, by order, pursuant to the provisions of chapter 15, and this subdivision, revoke the license of the offender. Before any such license shall be revoked, the licensee shall be furnished with a statement of the complaints made against him, and a hearing shall be had before the commissioner upon at least ten days notice to the licensee to determine whether such license shall be revoked, which notice may be served either by certified mail addressed to the address of the licensee as shown in his application or in the manner provided by law for the service of a summons. At the time and place fixed for hearing, the commissioner or any official, employee or agent of the department authorized by the commissioner, shall receive evidence, administer oaths, examine witnesses, hear the testimony and thereafter file an order either dismissing the proceedings or revoking the license.

Subd. 8. **Suspension of license.** Whenever the commissioner finds that the licensee has violated the provisions of sections 17A.04, 17A.05, 17A.07, or 17A.08 and that the continued activity of a licensee may cause irreparable injury or loss to persons engaged in business with the licensee, the commissioner may, without hearing, suspend the license of the licensee, provided that when a license is so suspended, the commissioner shall immediately initiate procedures to afford the licensee a hearing pursuant to subdivision 7 except that the ten days notice required in subdivision 7 may be waived by the licensee.

**History:** 1974 c 347 s 4; 1977 c 299 s 3,4; 1978 c 674 s 60; 1980 c 467 s 31

#### 17A.05 AMOUNT OF BONDS.

Subdivision 1. **Livestock market agencies.** The amount of each livestock market agency bond filed with the commissioner shall be not less than \$10,000 or such larger amount as required, based on the commissioner's consideration of the principal's financial statement, the volume of business he reports, or any other factor the commissioner deems pertinent for the protection of the public. Each such bond shall be executed on a Packers and Stockyards Act form and shall contain the condition clause applicable when the principal sells on commission. A bond equivalent in the form of a trust fund agreement executed in accordance with the Packers and Stockyards Act, 1921, as amended, (7 U.S.C. 181 et seq.) shall be acceptable.

Subd. 2. **Livestock dealers.** The amount of each livestock dealer bond filed with the commissioner shall be not less than \$5,000 or such larger amount as required, based on the commissioner's consideration of the principal's financial statement, the volume of business he reports, or any other factor the commissioner deems pertinent for the protection of the public. Each such bond shall contain the condition clause applicable when the principal buys on commission or as a dealer. A livestock dealer's bond shall be executed on a form furnished by the commissioner or in accordance with the Packers and Stockyards Act, 1921, as amended, (7 U.S.C. 181 et seq.).

If the bond is executed on a form furnished by the commissioner, the bond shall be limited to the protection of claimants whose residence or principal place of livestock business is in the state of Minnesota at the time of the transaction. If the bond is filed on a form in accordance with the Packers and Stockyards Act, the bond shall cover claimants regardless of place of residence.

**History:** 1974 c 347 s 5; 1977 c 299 s 5

#### 17A.06 CLAIMS AGAINST BONDS.

Subdivision 1. **Filing of claims.** Any person claiming to be damaged by any breach of the conditions of a bond given by a licensee may enter complaint thereof to the commissioner, which complaint shall be a written statement of the facts constituting the complaint, accompanied by documentary proof of his claim against the licensee.

Subd. 2. **Hearing on claims.** In case of default by the licensee, the commissioner shall have the power to have the matter heard as a contested case pursuant to procedures outlined in 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 claim and the allocation of the proceeds of the bond.

Subd. 3. **Legal notice.** Prior to a hearing, the commissioner shall notify by certified mail all known potential claimants and publish a notice setting forth the default of the licensee and requiring all claimants to file proof of claim with the commissioner within three months of the date such notice is published or be barred from participating in the proceeds of the bond. Such publication shall be made for three consecutive weeks in a newspaper published at the county seat of the county in which the licensee has his principal place of business. The commissioner shall also fulfill any notice requirements prescribed by chapter 15 and rules of the hearing examiner. No claim shall be allowed unless it is filed with the commissioner within one year of the date of the transaction. If a livestock market agency or livestock dealer has on file a Packers and Stockyards Act bond and is registered with the Packers and Stockyards Administration, the terms of the bond or that federal agency's regulations will control in determining the time for filing claims.

**History:** 1974 c 347 s 6; 1977 c 299 s 7; 1977 c 346 s 2,3

#### 17A.07 PROHIBITED CONDUCT.

It shall be unlawful for any person to (1) carry on the business of a livestock market agency or livestock dealer without a valid and effective license issued by the commissioner under the provisions of section 17A.04; (2) carry on the business of a livestock market agency or livestock dealer without filing and maintaining a valid and effective surety bond in conformity with sections 17A.04 and 17A.05; (3) carry on the business of a livestock market agency or livestock dealer if he cannot pay his debts as they become due or ceases to pay his debts in the ordinary course of business as they become due; (4) engage in or use any unfair or deceptive practice or device in connection with marketing of livestock; (5) willfully make or cause to be made any false entry or statement of fact in any application, financial statement or report filed with the department under the provisions of sections 17A.04, 17A.05 and 17A.08.

**History:** 1974 c 347 s 7

#### 17A.08 RECORD KEEPING.

Every person shall make and retain such accounts, records, and memoranda necessary to fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or other-

wise. Whenever the commissioner finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the commissioner may prescribe the manner or form and length of time for retention which such accounts, records, and memoranda shall be kept. The commissioner shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person being investigated or proceeded against.

**History:** 1974 c 347 s 8

#### **17A.09 FEEDER PIG MARKETS.**

The commissioner may, by regulations promulgated in accordance with section 15.0412, establish requirements for record making and retention, of livestock purchases and sales by operators of feeder pig markets, as he deems necessary and in his judgment will protect the public.

**History:** 1974 c 347 s 9

#### **17A.10 PACKING PLANTS, LIVESTOCK MARKET AGENCIES AND STOCKYARDS; WEIGHERS.**

The commissioner shall appoint at public stockyards, packing plants, slaughtering houses, buying stations, or livestock market agencies where the average daily number of livestock weighed for the purpose of establishing a basis for sale is 500 head or more, and the commissioner may appoint at public stockyards, packing plants, slaughtering houses, buying stations, or livestock market agencies on application from such facilities where the average daily number of livestock weighed for the purpose of establishing a basis for sale is less than 500 head, such weighers as may be necessary for weighing livestock, provided that no weighers shall be required at facilities where the only livestock handled has been previously purchased or acquired, and title or terms of ownership already established. The commissioner shall prescribe and follow such reasonable regulations as he deems necessary for determining such daily average. Such weighers shall weigh all livestock coming to these places for sale, and keep a record thereof. Upon request, the weighers shall furnish the interested parties a certificate setting forth the number of animals weighed and the actual weight of such animal or animals. Such certificate shall be prima facie evidence of the facts therein certified. The scales at all such places on which livestock is weighed shall be constructed and maintained in accordance with the requirements of the state division of weights and measures, and be tested up to the maximum draft that may be weighed thereon, at least once every 90 days, and be in compliance with all the statutory requirements and regulations adopted by the state division of weights and measures pertaining to livestock scales and weighing.

**History:** 1974 c 347 s 10; 1977 c 299 s 8

#### **17A.11 FEES FOR LIVESTOCK WEIGHING.**

The commissioner shall prescribe the fee necessary to cover the cost of such weighing, to be assessed and collected from the seller in such manner as the commissioner may prescribe; provided, that the fee assessed be the same, and the manner of collection thereof be uniform at all facilities, and provided, further, that if at any location, except a public stockyard, where weighing is performed in accordance with Laws 1974, Chapter 347 and the total annual fees collected are insufficient to pay the cost of such weighing, the annual deficit shall be assessed and collected in such manner as the commissioner may prescribe. Additional moneys arising from the weighing of animals by the commissioner, which have been collected and retained by any person, shall be paid on demand to the commissioner. All moneys collected by the commissioner shall be deposited in the state treasury and credited to the livestock weighing fund, and shall be paid out only on the order of the commissioner and the state's warrant.

**History:** 1974 c 347 s 11; 1977 c 299 s 9

#### **17A.12 QUALIFICATIONS.**

No weigher shall, during his term of service, be in any manner financially interested in the handling, shipping, purchase, or sale of livestock, nor in the employment of any person engaged therein.

**History:** 1974 c 347 s 12

#### **17A.13 GROSS MISDEMEANORS.**

Any weigher who shall knowingly or carelessly weigh any livestock improperly, or give any false certificate of weight, or accept money or other consideration directly or indirectly for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence or attempt to influence any such weigher in the performance of his duty by preventing his proper access to the scales used in the weighing of livestock, or otherwise, is guilty of a gross misdemeanor.

**History:** 1974 c 347 s 13

#### **17A.14 PENALTIES.**

Any person, duly licensed or otherwise, who violates the provisions of sections 17A.01 to 17A.15, for which violation a penalty has not been specifically set out, is guilty of a misdemeanor. A second violation within a licensing period is a gross misdemeanor.

**History:** 1974 c 347 s 14

#### **17A.15 POWERS AND DUTIES OF THE COMMISSIONER.**

The commissioner shall enforce the provisions of Laws 1974, Chapter 347 and shall promulgate, in the manner provided by law, such rules and regulations as he deems necessary or desirable, and may cooperate with any department of state or government, to carry out the provisions of sections 17A.01 to 17A.15. The commissioner or his duly-authorized agent shall have the power to issue subpoenas, administer oaths and affirmations, examine witnesses, receive evidence, and shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation or administrative proceeding.

**History:** 1974 c 347 s 15