

## CHAPTER 27

## WHOLESALE PRODUCE DEALERS

27.138 Wholesale produce dealers' trust.

27.19 Violations, penalties.

**27.138 WHOLESALE PRODUCE DEALERS' TRUST.***[For text of subs 1 to 3, see M.S.1990]*

**Subd. 4. Priority of unpaid sellers' interests in trust assets.** (a) The unpaid seller's 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.

*[For text of subs 5 and 6, see M.S.1990]***History:** 1991 c 199 art 1 s 7**27.19 VIOLATIONS, PENALTIES.**

**Subdivision 1. Prohibited acts.** (a) A person subject to the provisions of this section and sections 27.01 to 27.15 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 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, 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.

*[For text of subs 2 to 4, see M.S.1990]*

**History:** 1991 c 254 art 3 s 14