EXHIBIT A

5176.
> 25.
231.01 et seq.,

Chapter 27

WHOLESALE PRODUCE DEALERS

Section
27.001. Public policy.
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27.02. Repealed.
27.03. Dealer regulation.
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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.

Laws 1969, c. 471, § 1, eff. May 17, 1969. Amended by Laws 1975, c. 227, § 1, eff. July 1, 1975.

Historical and Statutory Notes

Title of Act:

An Act relating to agriculture; licensing and regulation of wholesale produce dealers; amending Minnesota Statutes 1967, Chapter 27, by adding a section; §§ 27.01; 27.04; and 27.06; repealing Minnesota Statutes 1967, § 27.02. Laws 1969, c. 471.

Constitutional Provisions

Article 13, § 7, provides:

"Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor."

Library References

Factors ⇐2.
WESTLAW Topic No. 167.
C.J.S. Agriculture §§ 166 to 170, 174, 176, 177.
C.J.S. Factors § 3.

United States Code Annotated

Perishable Agricultural Commodities Act, see 7 U.S.C.A. § 499a et seq.

27.01. Definitions

Subdivision 1. Repealed by Laws 1996, c. 310, § 1.

Subd. 2. Produce. "Produce" means:

(1) perishable fresh fruits and vegetables;

(2) milk and cream and products manufactured from milk and cream; and

(3) poultry and poultry products.

Subd. 3. Repealed by Laws 1996, c. 310, § 1.

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. "Due date" means ten days from the date of delivery of produce by the seller to the licensee 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 that accounting.

Subd. 6. Repealed by Laws 1996, c. 310, § 1.

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

Subd. 8. Wholesale produce dealer. (a) "Wholesale produce dealer" or "dealer at wholesale" means:

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

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

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

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

(b) 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) 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) 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) a person who purchases Minnesota seasonally grown 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) a person who handles and deals in only canned, packaged, or processed produce or packaged dairy products that are no longer 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.

Subd. 9. Repealed by Laws 1996, c. 310, § 1.

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.

Amended by Laws 1953, c. 345, § 1; Laws 1961, c. 113, § 1; Laws 1961, c. 128, § 9; Laws 1961, c. 163, § 1; Laws 1965, c. 787, § 1; Laws 1969, c. 471, § 2, eff. May 17, 1969; Laws 1975, c. 227, §§ 2 to 4, eff. July 1, 1975; Laws 1981, 1st Sp., c. 4, art. 1, § 38; Laws 1990, c. 530, §§ 2 to 5, eff. July 1, 1990.

Historical and Statutory Notes

Derivation:
St.1967, § 27.02.
Laws 1961, c. 163, § 2.
Laws 1943, c. 479, § 1.
Laws 1943, c. 312, § 1.
Laws 1941, c. 318, § 1.
St.Supp.1940, §§ 6240–18½, 6240–18½a.
Laws 1939, c. 251, §§ 1, 2.
Laws 1931, c. 394, §§ 1, 2.

Laws 1996, c. 310, which, by its title, repealed obsolete laws, repealed subds. 3, 6, and 9, defining "person", "milk processing plant", and "farmer", respectively.

Library References

Factors ⇐2.
WESTLAW Topic No. 167.
C.J.S. Agriculture §§ 166 to 170, 174, 176, 177.
C.J.S. Factors § 3.

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1. Validity

St.1940, Supp. §§ 6240–18½ to 6240–18½q requiring licenses and bonds from wholesale dealers in farm products are not arbitrary in their classification of products because of the requirement that dealers in live stock be separately licensed and bonded, and that dealers in hay, grain, and straw also be separately licensed and bonded. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

Chapter relating to wholesale produce dealers does not place unreasonable restraints on the right to pursue the business of a dealer at wholesale in farm products, and the regulation is a valid exercise of the "police power". State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

Chapter relating to wholesale produce dealers is not arbitrary in classification of products because of the requirement of other statutes that dealers in live stock be separately licensed and bonded, and that dealers in hay, grain, and straw also be separately licensed and bonded. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

The exemption of farmers' co-operatives having not more than 40 per cent. of non-member patrons from the application of chapter relating to wholesale produce dealers does not constitute an arbitrary or capricious classification inimical to the constitution. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

2. In general

In absence of any expression of legislative intent to contrary, this act is not limited to residents of the state. Bozied v. Edgerton, 1953, 239 Minn. 227, 58 N.W.2d 313.

Where plaintiff and defendant signed written memorandum whereby plaintiff confirmed sale to defendant of about 100 head No. 1 hen turkeys at stated amount per pound and about 600 head No. 1 Tom turkeys at stated amount per pound provided that No. 2's were to be three cents less in each case and that removal was to be made on specified date and the writing referred to plaintiff's entire flock of turkeys which was then in a deliverable state, title to property immediately passed to defendant who was required to bear loss caused by a blizzard before delivery date. Radloff v. Bragmus, 1943, 214 Minn. 130, 7 N.W.2d 491.

Employee of licensee did not have to secure a license, but whether employer was a licensee was a fact question to be determined by employer. Op.Atty.Gen., 832–H, May 18, 1950.

3. Purpose

The purpose of Wholesale Produce Dealers Act is to protect every producer of farm products by assuring each of them a financially reliable market. Bozied v. Edgerton, 1953, 239 Minn. 227, 58 N.W.2d 313.

The purpose of chapter relating to wholesale produce dealers was to protect the farmer in his dealings with wholesale dealers. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

Corporation purchasing potatoes wholesale from farmers, peeling potatoes and reselling them at wholesale to restaurants, hotels, etc., should be licensed under the Wholesale Produce Dealers' Act. Op.Atty.Gen., 832j–11, Feb. 9, 1962.

The object and purpose of the Wholesale Produce Dealers Act is to protect the farmer. Op. Atty.Gen., 832–J–1, Feb. 27, 1953.

The Wholesale Dealers Law was designed to protect the farmer from fraudulent practices of commission merchants. Op.Atty.Gen., 832–J–3, March 10, 1949.

4. Produce

Persons purchasing sod from farmers would not be buying produce within the meaning of § 27.04 and would not be required to obtain a license and give a bond. Op.Atty.Gen., 832–j, Feb. 26, 1965.

Exclusion from definition of "produce", in subd. 2 of this section, of livestock other than veal is broad enough to cover milk cattle, hence outstate cattle buyer coming into state to buy cattle and other livestock from local farmers need not obtain license required by § 27.03. Op.Atty.Gen., 832–J–8, Aug. 12, 1946.

The Wholesale Produce Dealers Act does not apply to one dealing in hides of wild animals and furs. Op.Atty.Gen., 832–J–4, Jan. 24, 1945.

5. Wholesalers—In general

Chapter relating to wholesale produce dealers applies equally to all relationships between wholesale dealers and their customers, including dealings between consignor and consignee. Leasure v. Clarkin, 1943, 214 Minn. 420, 8 N.W.2d 521.

The surety on wholesale produce dealers' bond cannot be held beyond limits of surety's contract as read in light of wholesale produce dealers law under which bond was executed. Leasure v. Clarkin, 1943, 214 Minn. 420, 8 N.W.2d 521.

Corporation purchasing potatoes wholesale from farmers, peeling potatoes and reselling them at wholesale to restaurants, hotels, etc., should be licensed under the Wholesale Produce Dealers' Act. Op.Atty.Gen., 832j–11, Feb. 9, 1962.

Persons engaged in business of buying produce and peddling it in retail lots from vehicles would be wholesale produce dealers within the definition of former § 27.02 (now this section), and subject to the licensing and other provisions of the Wholesale Producers Act. Op.Atty.Gen., 832–H, May 23, 1961.

Under cream buyer's contract submitted and the regulations, it was for cream buyer, and not for creamery, to purchase wholesale produce dealer's license. Op.Atty.Gen., 832–J–2, April 9, 1946.

Purchasers of materials to be manufactured by the purchaser into food were not wholesale produce dealers within former § 27.02 (now this section). Op.Atty.Gen., 832–J–11, Jan. 30, 1945.

Ice cream manufacturers purchasing cream from creameries, instead of from farmers, are within statute and must obtain license. Op. Atty.Gen.1938, No. 476, p. 697.

6. —— Cooperative associations, wholesalers

The exemptions provided in former § 27.02 (now this section) applied to cooperatives chartered in another state as well as domestically chartered. Op.Atty.Gen., 832g, May 3, 1967.

7. —— Bond, wholesalers

Where certain persons in the east, chiefly in New York, desired to purchase eggs in Minnesota through Minnesota company, and Minnesota company made agreement with resident of Pennsylvania who operated a fleet of trucks, and weekly one of the trucks would come to Minnesota, and after it came to Minnesota it was taken over by resident of Minnesota who was employed by the resident of Pennsylvania, and resident of Minnesota then picked eggs up at various set-in stations in Minnesota, and when eggs were collected, truck was then taken over by driver who brought truck from the east, and eggs were then transported to the east, New York produce dealers were not required to post wholesale dealer's bond. Op.Atty.Gen., 832–J–1, Feb. 27, 1953.

8. Due date

A shipper's action on bond of wholesale dealer to whom strawberries were consigned for sale was barred by shipper's failure to give notice of dealer's default to Commissioner of Agriculture within 30 days after the "due date" defined by statute as seven days from date sale was made by the dealer, notwithstanding notice

was given within 30 days after shipper had notice of dealer's default by dishonor of his check for payment of the strawberries. Leasure v. Clarkin, 1943, 214 Minn. 420, 8 N.W.2d 521.

A manufacturer of ice cream who makes butter in connection with the ice cream is engaged in conducting a creamery, and the "due date" would be that determined for creameries, but if manufacturer confines his activities solely to ice cream, the term "due date" as applied to creameries could not be applied to his business. Op.Atty.Gen.1938, No. 476, p. 697.

9. Offenses and prosecutions

Commissioner's duty to enforce law against dealer in produce operating without a license involves the exercise of judgment and discretion, and is not a ministerial duty, nonperformance of which may result in liability to one proximately damaged by the nonfeasance. Cook v. Trovatten, 1937, 200 Minn. 221, 274 N.W. 165.

Unlicensed wholesale dealer could be prosecuted for buying veal without a license. Op. Atty.Gen., 832–J–9, Sept. 29, 1950.

10. Actions

Wholesalers of meats and poultry, who brought action for declaratory judgment that wholesale produce dealers law was not applicable to them and for order enjoining Commissioner of Agriculture from enforcing licensing and bonding provisions of § 27.04 against them, could not appeal portion of order which granted Commissioner summary judgment but could appeal from portion of order which vacated temporary injunction against Commissioner and could present issues raised by that part of order. Western Meat, Inc. v. Wilson, 1965, 270 Minn. 275, 133 N.W.2d 631.

27.02. Repealed by Laws 1969, c. 471, § 5, eff. May 17, 1969

Historical and Statutory Notes

The repealed section related to wholesale produce dealers.

See, now, § 27.01, subd. 8.

27.03. Dealer regulation

Subdivision 1. License. A person 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 by the commissioner.

Subd. 2. Repealed by Laws 1986, c. 322, § 4, eff. March 15, 1986.

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.

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.

Amended by Laws 1975, c. 227, § 5, eff. July 1, 1975; Laws 1985, c. 233, § 4, eff. July 1, 1985; Laws 1986, c. 444; Laws 1990, c. 530, §§ 6 to 8, eff. July 1, 1990.

Historical and Statutory Notes

Derivation:

St.Supp.1940, § 6240–18½b.
Laws 1931, c. 394, § 3.

Cross References

Licensing food handlers, see § 28A.01 et seq.

Library References

Factors ⇐2.
WESTLAW Topic No. 167.
C.J.S. Agriculture §§ 166 to 170, 174, 176, 177.

C.J.S. Factors § 3.

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1. Validity

Chapter relating to wholesale produce dealers was not arbitrary in classification of products because of the requirement that dealers in live stock be separately licensed and bonded, and requirements of other statutes that dealers in hay, grain, and straw also be separately licensed and bonded. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

Chapter relating to wholesale produce dealers, in excluding farmers selling their own produce, was not unconstitutional as an arbitrary or fanciful classification, but is based on reasonable grounds justifying the distinction. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

2. Construction and application

Purpose of requirement that wholesale produce dealers be bonded is to protect the farmers who supply such dealers with agricultural raw materials. Transamerica Ins. Group v. Paul, 1978, 267 N.W.2d 180.

Father-in-law, who in application for wholesale produce dealer's performance bond represented that he was owner of small cheese company which, in fact was owned by son-in-law, was equitably estopped from denying his ownership for purpose of indemnifying surety for amount it was required to pay under bond when the company became insolvent. Transamerica Ins. Group v. Paul, 1978, 267 N.W.2d 180.

A law regulating a lawful business should be construed so that unreasonable burdens and absurd restrictions are not imposed. Western Meat, Inc. v. Wilson, 1965, 270 Minn. 275, 133 N.W.2d 631.

The commissioner of agriculture's faithful performance bond did not cover loss plaintiff sustained as result of failure to prosecute or proceed against wholesale dealer in produce, to whom plaintiff sold turkeys, for unlawfully doing business without a license, since commissioner's general duty to enforce law against wholesale dealers in produce involves exercise

of judgment and discretion, and is not a "ministerial duty," nonperformance of which may result in liability to one proximately damaged by the nonfeasance. Cook v. Trovatten, 1937, 200 Minn. 221, 274 N.W. 165.

The question of whether issuance of checks with insufficient funds with which to pay checks constitutes offense sufficient to suspend and revoke wholesale dealer's license depends on circumstances under which checks were issued, and Commissioner of Agriculture must be judge of facts surrounding each case. Op.Atty.Gen. 1934, No. 8, p. 89.

3. Purpose

Wholesale produce dealers law is intended to protect farmers from dishonest commission merchants and wholesale dealers who buy produce directly from farmers by requiring procurement of bond and license by those wholesale dealers. Western Meat, Inc. v. Wilson, 1965, 270 Minn. 275, 133 N.W.2d 631.

The purpose of this chapter was to protect the farmer in his dealings with wholesale dealers. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

4. Cattle buyers

Exclusion from definition of "produce", in subd. 2 of § 27.01, of livestock other than veal is broad enough to cover milk cattle, hence out-of-state cattle buyer coming into state to buy cattle and other livestock from local farmers need not obtain license required by this section. Op.Atty.Gen., 832–J–8, August 12, 1946.

5. Dried fruit brokers

Broker selling dried fruits to wholesale trade is not required to have wholesale produce dealer's license but broker selling canned fish must obtain license. Op.Atty.Gen., 832–H, Jan. 30, 1945.

6. Importers and exporters

Dealers handling for sale imported dried lutefisk for processing, imported and domestic sardines, canned salmon, and Alaskan herring, are not dealers at wholesale within scope of the Wholesale Dealers Law, and are not subject to licensing provisions thereof. Op. of Jan. 30, 1945, March 12, 1940, May 4, 1938, and April 4, 1928, modified. Op.Atty.Gen. 832–J–3, March 10, 1949.

7. Meat and poultry wholesalers

Wholesalers of meats and poultry who made their purchases only from slaughterers and processors and wholesalers and jobbers and who did not make purchases directly from farmers were not within purview of wholesale produce dealers law, and requirement that wholesale dealers who purchase directly from farmer procure license and bond as condition precedent to doing business within state did not apply to them. Western Meat, Inc. v. Wilson, 1965, 270 Minn. 275, 133 N.W.2d 631.

8. Milk and milk products dealers

An individual, partnership or corporation engaged in business of buying butterfat at wholesale for purpose of manufacturing ice cream and selling manufactured product at wholesale, was a wholesale dealer required to be licensed as such. Op.Atty.Gen.1938, No. 478, p. 699.

Ice cream manufacturers who purchased cream from creameries rather than direct from farmers, and who after converting cream into ice cream sold finished product in wholesale lots to ice cream parlors, drug stores and other business establishments, were required to obtain a wholesale dealer's license. Op.Atty.Gen. 1938, No. 476, p. 697.

9. Potato wholesalers

Corporation purchasing potatoes wholesale from farmers, peeling potatoes and reselling them at wholesale to restaurants, hotels, etc., should be licensed under the Wholesale Produce Dealers' Act. Op.Atty.Gen., 832j–11, Feb. 9, 1962.

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 to persons submitting an application, paying the prescribed fee, and complying with the conditions in this section.

Subd. 2. Application contents. (a) The application must be in writing, accompanied by the prescribed fee, and 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 for a partnership, and for a corporation the names of the officers of the corporation and where incorporated;

(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.

Amended by Laws 1955, c. 233, § 1; Laws 1955, c. 846, § 1; Laws 1957, c. 561, § 1; Laws 1959, c. 17, § 1; Laws 1969, c. 471, § 3, eff. May 17, 1969; Laws 1969, c. 1148, § 6; Laws 1975, c. 227, § 6, eff. July 1, 1975; Laws 1986, c. 444; Laws 1990, c. 530, § 9, eff. July 1, 1990.

Historical and Statutory Notes

Derivation:
St.Supp.1940, § 6240–18½c.
Laws 1935, c. 186, § 1.
Laws 1931, c. 394, § 4.

Library References

Factors ⇐2, 2½.
Licenses ⇐26, 27 et seq.
WESTLAW Topic Nos. 167, 238.
C.J.S. Agriculture §§ 166 to 170, 174, 176, 177.
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C.J.S. Licenses §§ 42, 64 et seq.

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Validity 1

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1. Validity

Provision of statute delegating to Commissioner of Agriculture authority to set amount of the bond required of a dealer at wholesale in farm products is not an unconstitutional "delegation of legislative authority", since the duty delegated is a mere "administrative duty." State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

Chapter relating to wholesale produce dealers is not arbitrary in its classification of products because of the requirement of other statutes that dealers in live stock be separately licensed and bonded, and that dealers in hay, grain, and straw also be separately licensed and bonded. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

Chapter relating to wholesale produce dealers does not place unreasonable restraints on the right to pursue the business of a dealer at wholesale in farm products, and the regulation is a valid exercise of the "police power." State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

Chapter relating to wholesale produce dealers, in excluding farmers selling their own produce, is not unconstitutional as an arbitrary or fanciful classification, but is based on reasonable grounds justifying the distinction. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

2. Construction and application

As a remedial act, this section requiring a bond should be construed liberally to accomplish its protective purpose. Bozied v. Edgerton, 1953, 239 Minn. 227, 58 N.W.2d 313.

Use of words "transacted" and "in part" in this section requiring a bond indicated legislative intent to avoid a narrow or technical interpretation and application of the protective provisions of such act. Bozied v. Edgerton, 1953, 239 Minn. 227, 58 N.W.2d 313.

In this section relating to a bond phrases "in whole" and "in part" are used respectively for purpose of distinguishing between intrastate and interstate business. Bozied v. Edgerton, 1953, 239 Minn. 227, 58 N.W.2d 313.

Chapter relating to wholesale produce dealers applies equally to all relationships between wholesale dealers and their customers, including dealings between consignor and consignee. Leasure v. Clarkin, 1943, 214 Minn. 420, 8 N.W.2d 521.

3. Purpose

Wholesale produce dealers law is intended to protect farmers from dishonest commission merchants and wholesale dealers who buy produce directly from farmers by requiring procurement of bond and license by those wholesale dealers. Western Meat, Inc. v. Wilson, 1965, 270 Minn. 275, 133 N.W.2d 631.

The purpose of chapter relating to wholesale produce dealers was to protect the farmer in his dealings with wholesale dealers. State v. Marcus, 1941, 210 Minn. 576, 299 N.W. 241.

4. Bond—In general

In proceeding to enforce conditions of a wholesale produce dealer's bond, evidence sustained finding that plaintiffs had no notice that agent buying eggs from plaintiffs was acting contrary to instructions or in fraud of dealer's interests. Rausch v. Aronson, 1941, 211 Minn. 272, 1 N.W.2d 371.

In proceeding to enforce conditions of a wholesale produce dealer's bond, evidence justified judgment for plaintiff on ground that one purchasing eggs from plaintiffs acted as the dealer's agent. Rausch v. Aronson, 1941, 211 Minn. 272, 1 N.W.2d 371.

Even dealers whose licenses were unexpired on effective date of 1955 amendment requiring a corporate surety in lieu of personal surety bond (which had theretofore been effective) were required to furnish a corporate bond. Op. Atty.Gen., 832–A–9, April 28, 1955.

5. —— Signature on bond

Bond for license to operate as wholesale produce dealer, signed in name of applicant partnership by one of the partners acting on behalf of partnership, binds partnership. Op.Atty. Gen., 832–A–3, Aug. 27, 1946.

6. —— Persons and transactions covered by bond

A sale of eggs which was arranged by phone call from produce dealer in South Dakota to licensed Minnesota produce dealer in Minnesota necessarily involved business transacted "in part" within Minnesota, within meaning of statute requiring a bond, and South Dakota dealer could make claim against bond when dealer's check was returned for insufficient funds. Bozied v. Edgerton, 1953, 239 Minn. 227, 58 N.W.2d 313.

Where transaction for sale of farm produce to licensed Minnesota wholesale produce dealer is intrastate or is interstate in a manner and to the degree that an integral part of the transaction is conducted in Minnesota, the seller, even though he may be a nonresident, comes within the protective coverage of such wholesale produce dealer's bond. Bozied v. Edgerton, 1953, 239 Minn. 227, 58 N.W.2d 313.

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7. —— Sureties' rights and liabilities on bond

Bond filed with commissioner of agriculture by wholesale produce dealer who was not required to supply such bond in order to secure license obligated surety which executed the bond in exchange for premium to fulfill conditions of the bond, and surety therefore sustained no recoverable loss when sums paid by it to commissioner of agriculture were disbursed to creditors of the principal. National Sur. Corp. v. Schwandt, 1968, 279 Minn. 444, 157 N.W.2d 506.

Where applications for surety bonds showed plainly by their terms that individuals were applying for individual bonds, even though surety may have issued bond to corporation which such individuals organized on basis of such applications, in surety's action against them for indemnity, under bond issued to corporation parol evidence was inadmissible to show that such applications were in fact indemnity and save-harmless agreements to protect surety against loss by reason of default on bonds. Anchor Cas. Co. v. Bird Island Produce, Inc., 1957, 249 Minn. 137, 82 N.W.2d 48.

In surety's action against corporate principal's officers as alleged indemnitors under bond, even if surety issued bond to corporation on basis of applications of such officers, such applications were not admissible against such officers to show that they were indemnitors, on any theory that the instruments were to be read together, where such applications showed that they were applications for individual bonds and, only by aid of extrinsic evidence, could they be interpreted as referring to same transaction. Anchor Cas. Co. v. Bird Island Produce, Inc., 1957, 249 Minn. 137, 82 N.W.2d 48.

The surety on wholesale produce dealers' bond cannot be held beyond limits of surety's contract as read in light of wholesale produce dealers law under which bond was executed. Leasure v. Clarkin, 1943, 214 Minn. 420, 8 N.W.2d 521.

Where bonding company, in compliance with statute, executed a surety bond conditioned on faithful performance of principal as a wholesale dealer in sale of butter, and subsequently principal and his wife executed a joint agreement with certain creameries whereby principal and his wife agreed to maintain a wholesale dealer's bond in conformity with law, and thereafter Commissioner of Agriculture, Dairy and Food brought suit in behalf of creameries on the bond, evidence sustained jury's finding that sales of butter were made to principal alone and not to principal and his wife, and that hence rule that liability of a surety for one or more principals does not extend to acts performed by such principals jointly with others, was not applicable. Trovatten v. Minea, 1942, 213 Minn. 544, 7 N.W.2d 390.

8. —— Commissioner's bond

The commissioner of agriculture's faithful performance bond did not cover loss plaintiff sustained as result of failure to prosecute or proceed against wholesale dealer in produce, to whom plaintiff sold turkeys, for unlawfully doing business without a license, since commissioner's general duty to enforce law against wholesale dealers in produce involves exercise of judgment and discretion, and is not a "ministerial duty," nonperformance of which may result in liability to one proximately damaged by the nonfeasance. Cook v. Trovatten, 1937, 200 Minn. 221, 274 N.W. 165.

9. Licenses—In general

Wholesalers of meats and poultry who made their purchases only from slaughterers and processors and wholesalers and jobbers and who did not make purchases directly from farmers were not within purview of wholesale produce dealers law, and requirement that wholesale dealers who purchase directly from farmer procure license and bond as condition precedent to doing business within state did not apply to them. Western Meat, Inc. v. Wilson, 1965, 270 Minn. 275, 133 N.W.2d 631.

Persons purchasing sod from farmers would not be buying produce within the meaning of this section and would not be required to obtain a license and give a bond. Op.Atty.Gen., 832–j, Feb. 26, 1965.

10. —— Foreign corporations, licenses

The commissioner of agriculture would be obligated to issue a wholesale produce dealers license to any person meeting the qualifications specified in this section, notwithstanding that the person making application be a foreign corporation or a foreign chartered cooperative not authorized to do business within the state; however, if such a license was granted to a foreign corporation or foreign chartered cooperative they would not be permitted to do business within the state without first obtaining a Certificate of authority as required by § 303.03. Op. Atty.Gen., 832g, May 3, 1967.

11. Notice of default

A shipper's action on bond of wholesale dealer to whom strawberries were consigned for sale was barred by shipper's failure to give notice of dealer's default to Commissioner of Agriculture within 30 days after the "due date" defined by subd. 5 of § 27.01 as seven days from date sale was made by the dealer, notwithstanding notice was given within 30 days after shipper had notice of dealer's default by dishonor of his check for payment of the strawberries. Leasure v. Clarkin, 1943, 214 Minn. 420, 8 N.W.2d 521.

12. Review

Wholesalers of meats and poultry, who brought action for declaratory judgment that wholesale produce dealers law was not applicable to them and for order enjoining Commissioner of Agriculture from enforcing licensing and bonding provisions of this section against them, could not appeal portion of order which granted Commissioner summary judgment but could appeal from portion of order which vacated temporary injunction against Commissioner and could present issues raised by that part of order. Western Meat, Inc. v. Wilson, 1965, 270 Minn. 275, 133 N.W.2d 631.

In certiorari proceeding to review determination by Commissioner of Agriculture that certain business of licensed Minnesota wholesale produce dealer was not transacted in whole or in part in Minnesota, within meaning of statute authorizing action against dealer's bond, issue was not whether Commissioner's action was arbitrary and unreasonable, or whether evidence sustained his determination, but rather was whether his findings were controlled by an erroneous theory of law in applying such statute to the facts. Bozied v. Edgerton, 1953, 239 Minn. 227, 58 N.W.2d 313.

Where license issued to wholesale produce dealer had expired, a decision of the Commissioner of Agriculture, Dairy and Food revoking such license could not be reviewed on certiorari, since the question presented was "moot". Dehning v. Marshall Produce Co., 1943, 215 Minn. 339, 10 N.W.2d 229.

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.

Laws 1990, c. 530, § 10, eff. July 1, 1990.

27.041. Bonds; licenses

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 determined by the commissioner with the maximum not to exceed $1,000,000. In lieu of the surety bond, the commissioner may accept a duly executed letter of credit. 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;

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(2) payment when due, 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.

(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 this section.

(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. 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 expires June 30 following its issuance and must be renewed July 1 of each year.

(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 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 $10 for each license identification truck decal.

(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.

Laws 1975, c. 227, § 7, eff. July 1, 1975. Amended by Laws 1981, c. 356, § 265; Laws 1983, c. 293, § 52; Laws 1986, c. 444; Laws 1987, c. 358, § 83; Laws 1990, c. 530, § 11, eff. July 1, 1990.

Library References

Factors ⇐2½.
Licenses ⇐26.
WESTLAW Topic Nos. 167, 238.

C.J.S. Factors § 3.
C.J.S. Licenses § 42.

Notes of Decisions

In general 1
Purpose 2

1. In general

Father-in-law, who in application for wholesale produce dealer's performance bond represented that he was owner of small cheese company which, in fact was owned by son-in-law, was equitably estopped from denying his ownership for purpose of indemnifying surety for amount it was required to pay under bond when the company became insolvent. Transamerica Ins. Group v. Paul, 1978, 267 N.W.2d 180.

2. Purpose

Purpose of requirement that wholesale produce dealers be bonded is to protect the farmers who supply such dealers with agricultural raw materials. Transamerica Ins. Group v. Paul, 1978, 267 N.W.2d 180.

27.05. Repealed by Laws 1990, c. 530, § 27, eff. July 1, 1990

Historical and Statutory Notes

The repealed section, which authorized the commissioner to require additional bonds, was derived from:

Laws 1986, c. 444.
St.Supp.1940, § 6240–18½d.
Laws 1931, c. 394, § 5.

27.06. Complaints to commissioner, hearing; action on bond

A person claiming to be damaged by a breach of the conditions of a bond given by a licensee may submit a complaint to the commissioner within 40 days after the due date. The complaint must be a written statement of the facts constituting the complaint. After receiving a filed complaint, the commissioner shall investigate the charges made and may have the matter heard as a contested case pursuant to chapter 14 if an affected party requests a hearing.

Amended by Laws 1955, c. 233, § 3; Laws 1961, c. 163, § 3; Laws 1969, c. 471, § 4, eff. May 17, 1969; Laws 1975, c. 227, § 8, eff. July 1, 1975; Laws 1977, c. 346, § 4; Laws 1982, c. 424, § 130; Laws 1986, c. 444; Laws 1990, c. 530, § 12, eff. July 1, 1990.

Historical and Statutory Notes

Derivation:
St.Supp.1940, § 6240–18½e.
Laws 1935, c. 186, § 2.
Laws 1931, c. 394, § 6.

Library References

Agriculture ⇐2.
Factors ⇐2½.
Licenses ⇐26.
WESTLAW Topic Nos. 23, 167, 238.

C.J.S. Agriculture §§ 8 et seq., 51, 67, 96, 100, 134, 175.
C.J.S. Factors § 3.
C.J.S. Licenses § 42.

United States Code Annotated

Estate and gift tax liens, priority, as amended by tax lien act of 1966, see 26 U.S.C.A. § 6324.

Notes of Decisions

Action on bond 4
Construction and application 1
Disposition of moneys recovered 8
Evidence 6
Hearing 2
Order 3
Pleading 5
Presumptions and burden of proof 7
Review 9

1. Construction and application

Under this section, complaint, investigation and hearing are for purpose of securing consent to sue surety, commissioner merely determines that debt is one which comes within scope of surety's undertaking, and that determination is a condition precedent to right of creditor to sue surety, but liability of surety is determined by district court as in any civil action. Anchor Cas. Co. v. Bongards Co-op. Creamery Ass'n, 1958, 253 Minn. 101, 91 N.W.2d 122.

This section is a remedial act, and should be construed liberally with a view of giving effect to objects which legislature sought to accomplish and so as not to deny creditors the beneficial purposes of the act. Anchor Cas. Co. v. Bongards Co-op. Creamery Ass'n, 1958, 253 Minn. 101, 91 N.W.2d 122.

2. Hearing

Automatic stay barred continuation of Minnesota Department of Agriculture proceedings on claim filed by produce suppliers against letter of credit posted by debtor, a dealer in wholesale produce, in order to obtain license from Department of Agriculture. In re Joe DeLisi Fruit Co., Bkrtcy.D.Minn.1981, 11 B.R. 694.

Where deputy of Commissioner of Agriculture entered order on July 11, denying claim of creditor of wholesale produce dealer against dealer's security, Commissioner had power to make order on August 30 vacating order denying claim and setting a hearing for taking of additional evidence, in view of fact that no claim was made that surety had been prejudiced by decision to rehear and only effect of order was to reopen matter for taking of additional testimony to determine merits of creditor's claim that he should be permitted to assert against surety a part of loss which he had sustained. Anchor Cas. Co. v. Bongards Co-op. Creamery Ass'n, 1958, 253 Minn. 101, 91 N.W.2d 122.

The question of whether issuance of checks with insufficient funds with which to pay checks constitutes offense sufficient to suspend and revoke wholesale dealer's license depends on circumstances under which checks were issued and Commissioner of Agriculture must be judge of facts surrounding each case. Op.Atty.Gen. 1934, No. 8, p. 89.

3. Order

Where through fraud, mistake, or misconception of facts, commissioner of agriculture enters order pursuant to this section with respect to complaint filed by person claiming himself to be damaged by breach of condition of bond given by wholesale produce dealer and commissioner promptly recognizes that order may be in error, he has power to vacate order for purpose of making correction or revision, providing such action is taken by him within a reasonable time after due notice to interested parties. Anchor Cas. Co. v. Bongards Co-op. Creamery Ass'n, 1958, 253 Minn. 101, 91 N.W.2d 122.

4. Action on bond

Bond filed with commissioner of agriculture by wholesale produce dealer who was not required to supply such bond in order to secure license obligated surety which executed the bond in exchange for premium to fulfill conditions of the bond, and surety therefore sustained no recoverable loss when sums paid by it to commissioner of agriculture were disbursed to creditors of the principal. National Sur. Corp.

v. Schwandt, 1968, 279 Minn. 444, 157 N.W.2d 506.

5. Pleading

Striking as sham and frivolous answer consisting of general denial by surety, acknowledging correctness of plaintiff's claim, but denying liability for interest, was proper. Stein v. Kelly, 1927, 173 Minn. 613, 216 N.W. 792.

6. Evidence

In proceeding to enforce conditions of a wholesale produce dealer's bond, evidence justified judgment for plaintiff on ground that one purchasing eggs from plaintiffs acted as the dealer's agent. Rausch v. Aronson, 1941, 211 Minn. 272, 1 N.W.2d 371.

In proceeding to enforce conditions of a wholesale produce dealer's bond, evidence sustained finding that plaintiffs had no notice that agent buying eggs from plaintiffs was acting contrary to instructions or in fraud of dealer's interests. Rausch v. Aronson, 1941, 211 Minn. 272, 1 N.W.2d 371.

Principal's verified statement of debt in investigation by his surety was "admission" and proper evidence in action against surety. Stein v. Kelly, 1927, 173 Minn. 613, 216 N.W. 792.

7. Presumptions and burden of proof

In proceeding by sellers of eggs to enforce conditions of a wholesale produce dealer's bond, burden was on plaintiffs to prove that person buying the eggs was produce dealer's agent. Rausch v. Aronson, 1941, 211 Minn. 272, 1 N.W.2d 371.

8. Disposition of moneys recovered

Money recovered by commissioner in litigation commenced by him as authorized by this section need not be deposited in state treasury, and warrants of state auditor are not required for paying out such money. Op.Atty.Gen., 454–E, Feb. 26, 1946.

9. Review

Claimant against bond of wholesale produce dealer whose claim had been disallowed by commissioner of agriculture was not entitled to have review of commissioner's findings and conclusions on his claim except by certiorari. Festler v. Wallach, 1955, 245 Minn. 222, 71 N.W.2d 836.

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.

Laws 1965, c. 787, § 2.

Library References

Agriculture ⇐2.
Inspection ⇐3.
WESTLAW Topic Nos. 23, 216.

C.J.S. Agriculture §§ 8 et seq., 51, 67, 96, 100, 134, 175.
C.J.S. Inspection § 4.

27.07. Grades established; inspection

Subdivision 1. Commissioner's power. 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. Certificates. 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. Application for inspector's service. Any person who wants produce to be inspected 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, the commissioner may grant the service upon terms and conditions fixed by the commissioner and this section.

Subd. 4. Deposit agreement. 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 money remaining to the depositor's credit after the deduction of the costs at the time such agreement terminates.

Subd. 5. Fees. 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.

Subd. 6. Cooperative agreements; fees; account. The commissioner may collect fees as provided for in cooperative agreements between the commissioner and the United States Department of Agriculture for the inspection of fresh fruits, vegetables, and other products. The fees and interest attributable to money in the account must be deposited in the state treasury and credited to a fruit and vegetables inspection account.

Amended by Laws 1955, c. 232, § 1; Laws 1961, c. 163, § 4; Laws 1975, c. 204, § 97; Laws 1977, c. 234, § 1; Laws 1986, c. 444; Laws 1987, c. 358, § 84; Laws 1993, c. 172, § 28.

Historical and Statutory Notes

Derivation:

St.Supp.1940, § 6240–18½f.
Laws 1931, c. 394, § 7.

Cross References

Seed potatoes exempt, see § 30.103.

Library References

Agriculture ⇐2.
Factors ⇐2.
Inspection ⇐3.
WESTLAW Topic Nos. 23, 167, 216.

C.J.S. Agriculture §§ 8 et seq., 51, 67, 96, 100, 134, 166 to 170, 174 to 177.
C.J.S. Factors § 3.
C.J.S. Inspection § 4.

Notes of Decisions

In general 1

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1. In general

Where plaintiff and defendant signed written memorandum whereby plaintiff confirmed sale to defendant of about 100 head No. 1 hen turkeys at stated amount per pound and about 600 head No. 1 Tom turkeys at stated amount per pound provided that No. 2's were to be three cents less in each case and that removal was to be made on specified date and the writing referred to plaintiff's entire flock of turkeys which was then in a deliverable state, title to property immediately passed to defendant who was re-

Note 1

quired to bear loss caused by a blizzard before delivery date. Radloff v. Bragmus, 1943, 214 Minn. 130, 7 N.W.2d 491.

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 rules 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.

Amended by Laws 1961, c. 163, § 5; Laws 1985, c. 248, § 70.

Historical and Statutory Notes

Derivation:

St.Supp.1940, § 6240–18½g.
Laws 1931, c. 394, § 8.

Library References

Food ⇐3, 16.
WESTLAW Topic No. 178.
C.J.S. Food §§ 12(1) et seq., 30 et seq.

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.

Historical and Statutory Notes

Derivation:

St.Supp.1940, § 6240–18½h.
Laws 1931, c. 394, § 9.

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, the dealer 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.

Amended by Laws 1986, c. 444.

Historical and Statutory Notes

Derivation:
St.Supp.1940, § 6240–18½i.
Laws 1931, c. 394, § 10.

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, the dealer 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 shall pay the shipper the net amount due.

Amended by Laws 1986, c. 444.

Historical and Statutory Notes

Derivation:
St.Supp.1940, § 6240–18½j.
Laws 1931, c. 394, § 11.

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, the shipper may complain in writing to the commissioner, who shall investigate the matter complained of.

Amended by Laws 1986, c. 444.

Historical and Statutory Notes

Derivation:
St.Supp.1940, § 6240–18½k.
Laws 1931, c. 394, § 12.

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 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 27.14 and 27.19, the commissioner shall have the authority, upon complaint being filed for any

alleged violation of the provisions thereof, or the rules 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 the commissioner 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. The commissioner shall have, and is hereby granted, full authority to issue subpoenas requiring the attendance of witnesses before the commissioner, 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.

Amended by Laws 1955, c. 232, § 2; Laws 1961, c. 113, § 1; Laws 1961, c. 163, § 6; Laws 1985, c. 248, § 70; Laws 1986, c. 444; Laws 1997, c. 7, art. 1, § 12.

Historical and Statutory Notes

Derivation:

St.Supp.1940, § 6240–18½*l*.
Laws 1931, c. 394, § 13.

Laws 1955, c. 232, § 2, authorized the commissioner to suspend a license issued by the commissioner after 10 days' notice to the licensee pending hearing and decision where the public interest requires it.

Laws 1961, c. 113, § 1, made changes conforming to the renaming of the department of agriculture, dairy, and food as the department of agriculture.

Laws 1961, c. 163, § 6, corrected several citations.

Laws 1986, c. 444, authorized the removal of nonsubstantive gender specific references.

Laws 1997, c. 7, art. 1, § 12, instructed the revisor of statutes to change all references to § 27.15 to § 27.14 in §§ 27.13, 27.14, 27.19, and 27.20, respectively.

Library References

Factors ⇐2.
Licenses ⇐38.
WESTLAW Topic Nos. 167, 238.
C.J.S. Agriculture §§ 4.5, 166 to 170, 174, 176, 177.
C.J.S. Factors § 3.
C.J.S. Licenses §§ 48, 50 to 63.

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.

Laws 1990, c. 530, § 13, eff. July 1, 1990.

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.

Laws 1990, c. 530, § 14, eff. July 1, 1990.

27.137. Definitions

Subdivision 1. Applicability. The definitions in this section apply to this section and section 27.138.

Subds. 2 to 4. Repealed by Laws 1996, c. 310, § 1.

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. Repealed by Laws 1996, c. 310, § 1.

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

Subd. 8. Repealed by Laws 1996, c. 310, § 1.

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

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.

Laws 1990, c. 530, § 15, eff. July 1, 1990.

Historical and Statutory Notes

Laws 1996, c. 310, which, by its title, repealed obsolete laws, in part repealed subds. 2, 3, 4, 6, and 8, which defined "commissioner", "due date", "person", "producc" and "seller", respectively.

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.

(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 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.

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.

Laws 1990, c. 530, § 16, eff. July 1, 1990. Amended by Laws 1991, c. 199, art. 1, § 7.

Notes of Decisions

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1. Construction with federal law

Perishable Agricultural Commodities Act (PACA) did not expressly or impliedly preempt Minnesota Wholesale Produce Dealers Act (WPDA), though goals and procedures of the two laws were very similar, where Congress had evidenced no intent to occupy field, WPDA was complementary to PACA, and sellers of produce could file for protection under one or both of the statutory schemes without compromising the other. In re Country Club Market, Inc., Bkrtcy.D.Minn.1994, 175 B.R. 1011.

2. Purpose

Purpose of Minnesota Wholesale Produce Dealers Act (WPDA) is to protect producers and sellers of perishable agricultural commodities, who cannot repossess their products in event of default, and provisions of WPDA should be liberally construed to achieve that purpose. In re Country Club Market, Inc., Bkrtcy.D.Minn. 1994, 175 B.R. 1011.

3. Nature and scope of trust

Minnesota Wholesale Produce Dealers Act's (WPDA) trust fund is not segregated fund created by debtor, but is nonsegregated floating trust which hovers over not only perishable commodities, but products made from them, accounts receivable and proceeds of them. In re Country Club Market, Inc., D.Minn.1994, 175 B.R. 1005, on remand 175 B.R. 1011.

Pursuant to Minnesota Wholesale Produce Dealers Act (WPDA) providing that dealer's produce and any proceeds thereof are to be held in trust for benefit of any unpaid sellers, Chapter 7 debtor-dealer's fiduciary duty required it to maintain sufficient funds commingled with general revenues, to satisfy unpaid sellers in full, with burden on debtor to ensure that trust assets were maintained. In re Country Club Market, Inc., D.Minn.1994, 175 B.R. 1005, on remand 175 B.R. 1011.

4. Beneficiary notice

By filing its beneficiaries' notice of intent to preserve trust assets pursuant to the Minnesota Wholesale Produce Dealers Act (WPDA), unpaid seller complied with all conditions necessary to protect its trust asset in Chapter 7 debtor-dealer's proceeds; trust assets were not part of bankruptcy estate, and thus unpaid seller was not required to perfect its interest in order to recover under Bankruptcy Code. In re Country Club Market, Inc., D.Minn.1994, 175 B.R. 1005, on remand 175 B.R. 1011.

Unpaid seller of agricultural produce was not obligated to obtain lift of stay before filing its beneficiaries' notice of intent to preserve trust assets pursuant to Minnesota Wholesale Produce Dealers Act (WPDA); trust fund was not property of debtor's estate. In re Country Club Market, Inc., D.Minn.1994, 175 B.R. 1005, on remand 175 B.R. 1011.

5. Perishable agricultural products

Although Minnesota Wholesale Produce Dealers Act (WPDA) is liberally construed to protect perishable agricultural products industry, this protection is not without limitation, and should not be extended to all products derived from perishable agricultural products, including products which have lost their perishability through manufacturing, processing, or packaging; application of WPDA to such products would distort legislative purpose behind enactment. In re Country Club Market, Inc., Bkrtcy. D.Minn.1994, 175 B.R. 1011.

Statutory trust created under the Minnesota Wholesale Produce Dealers Act (WPDA) will protect proceeds from sale of products derived from the manufacturing, processing or packaging of perishable agricultural produce only if products retain some perishable quality. In re Country Club Market, Inc., Bkrtcy.D.Minn. 1994, 175 B.R. 1011.

Material question of fact, regarding extent to which fruit juices supplied to debtor-retailer retained their perishable quality even after reconstitution and repackaging, precluded entry of summary judgment in proceeding brought by supplier under the Minnesota Wholesale Produce Dealers Act (WPDA) for turnover of proceeds generated from sale of such fruit juices and fruit flavored drinks as subject to statutory trust created under the WPDA. In re Country Club Market, Inc., Bkrtcy.D.Minn.1994, 175 B.R. 1011.

Statutory trust created under the Minnesota Wholesale Produce Dealers Act (WPDA) in favor of suppliers of perishable agricultural commodities did not protect supplier's right to deposits on wooden pallets, bottles and cases provided to debtor-retailer. In re Country Club Market, Inc., Bkrtcy.D.Minn.1994, 175 B.R. 1011.

6. Bankruptcy—In general

Assets subject to Minnesota Wholesale Produce Dealers Act (WPDA) providing that dealer's produce and any proceeds thereof are to be held in trust for benefit of any unpaid sellers were not property of Chapter 7 debtor-dealer's bankruptcy estate, and thus unpaid seller, as WPDA beneficiary, took complete priority in payment as to all assets of debtor, ahead of claims of creditors who had valid security interests, ahead of administrative costs and expenses incurred in bankruptcy court, and ahead of all other priority and general creditors. In re Country Club Market, Inc., D.Minn.1994, 175 B.R. 1005, on remand 175 B.R. 1011.

7. —— Priority, bankruptcy

Minnesota Wholesale Produce Dealers Act (WPDA) providing that dealer's produce and any proceeds thereof are to be held in trust for benefit of any unpaid sellers created statutory trust for benefit of unpaid seller, granting unpaid seller superior position over all other creditors of Chapter 7 debtor-dealer, including secured creditors; plain language of statute and legislature's intent in enacting statute to provide superior position for unpaid sellers over dealer's secured creditors indicated intent to create trust for benefit of unpaid sellers. In re Country Club Market, Inc., D.Minn.1994, 175 B.R. 1005, on remand 175 B.R. 1011.

8. Parties

Chapter 11 trustee, as party standing in shoes not of creditors but of debtor, lacked standing to assert impairment-of-contract defense to proceeding brought by bankrupt grocer's supplier under the Minnesota Wholesale Produce Dealers Act (WPDA) to enforce trust against proceeds generated from debtor's resale of perishable agricultural commodities; only creditors whose rights were affected by statutory trust created under the WPDA had standing to challenge the WPDA as unconstitutional impairment of their contractual rights or as violative of due process. In re Country Club Market, Inc., Bkrtcy.D.Minn.1994, 175 B.R. 1011.

9. Pleadings

In keeping with federal policy of liberal amendment of pleadings, agricultural supplier who had brought suit against debtor-retailer under the Minnesota Wholesale Produce Dealers Act (WPDA) would be allowed to amend complaint to assert claim for prejudgment interest, notwithstanding its failure to seek to amend until after debtor had served it with motion for summary judgment. In re Country Club Market, Inc., Bkrtcy.D.Minn.1994, 175 B.R. 1011.

27.14. Rules

In the manner provided by law, the commissioner, from time to time, shall make and publish uniform rules, not inconsistent with law, for carrying out and enforcing the provisions of sections 27.01 to 27.14 and 27.19 and governing the rates charged by, and the buying, selling, advertising and trading practices of, dealers at wholesale.

Amended by Laws 1961, c. 163, § 7; Laws 1985, c. 248, § 70; Laws 1997, c. 7, art. 1, § 12.

Historical and Statutory Notes

Derivation:

St.Supp.1940, § 6240–18½m.
Laws 1931, c. 394, § 14.

Administrative Code References

Christmas tree standards, family farm security, weather modification, warehouses, see Minn. Rules 1560.0100 et seq.
Wholesale produce dealers, see Minn. Rules 1500.0101 et seq.

Library References

Administrative Law and Procedure ⇐388.
Agriculture ⇐2.
Factors ⇐2, 3.
Licenses ⇐40.
WESTLAW Topic Nos. 15A, 23, 167, 238.
C.J.S. Agriculture §§ 4.5, 8 et seq., 51, 67, 96, 100, 134, 164, 166 to 171, 174 to 177.
C.J.S. Factors §§ 3, 4.
C.J.S. Licenses §§ 82, 83.
C.J.S. Public Administrative Law and Procedure § 90.

27.15. Repealed by Laws 1996, c. 310, § 1

Historical and Statutory Notes

The repealed section, which related to the cooperation of the commissioner of agriculture with other authorities, was derived from:
Laws 1961, c. 163, § 8.
Laws 1955, c. 232, § 3.
St.Supp.1940, § 6240–18½n.
Laws 1931, c. 394, § 15.

Laws 1996, c. 310, by its title, repealed obsolete laws.

27.16 to 27.18. Renumbered 29.201 to 29.205 in St.1961

Historical and Statutory Notes

Sections 27.16 to 27.18 were renumbered as sections 29.201 to 29.205 in St.1961. The following table shows the disposition of each section.

Disposition Table

Former Section	New Section
27.16	29.201
27.17	29.203
27.18	29.205

Repealed 2001

27.185. Seizure and confiscation of motor vehicles

Subdivision 1. Seizure. 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.

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, 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.

Laws 1990, c. 530, § 17, eff. July 1, 1990.

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 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.

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.

Amended by Laws 1955, c. 232, § 4; Laws 1959, c. 17, § 2; Laws 1961, c. 113, § 1; Laws 1961, c. 163, § 9; Laws 1965, c. 787, § 3; Laws 1975, c. 227, § 9, eff. July 1, 1975; Laws 1985, c. 248, § 70; Laws 1986, c. 444; Laws 1990, c. 530, § 18, eff. July 1, 1990; Laws 1991, c. 254, art. 3, § 14; Laws 1997, c. 7, art. 1, § 12.

Historical and Statutory Notes

Derivation:
St.Supp.1940, § 6240–18½o.
Laws 1931, c. 394, § 16.

Laws 1955, c. 232, § 4, corrected citations throughout and, in the last clause, made the revocation and cancellation of the license of persons convicted of the listed offenses permissive rather than mandatory.

Laws 1959, c. 17, § 2, deleted a clause making it a misdemeanor for any person subject to the provisions of §§ 27.01 to 27.19 to make or collect any commission or charge in excess of that shown on the schedule that person filed with the commissioner.

Laws 1961, c. 113, § 1, made changes conforming to the renaming of the department of agriculture, dairy, and food to the department of agriculture.

Laws 1961, c. 163, § 9, corrected citations.

Laws 1965, c. 787, § 3, substituted "decorative forest products and the products of farms and waters" for "produce".

Laws 1975, c. 227, § 9, added a sentence to the end of the section stipulating that each day a person violates any provisions of §§ 27.01 to 27.15 and 27.19, or any rule or regulation published thereunder by the commissioner, shall constitute a separate offense.

Laws 1986, c. 444, authorized the removal of nonsubstantive gender specific references.

Laws 1985, c. 248, § 70, instructed the revisor of statutes to delete references to regulations when referring to administrative rules adopted on the state level and replace them with references to rules, and in the phrase "rules and regulations" to delete "and regulations".

Laws 1990, c. 530, § 18, designated subd. 1 and subd. 1, par. (a), as such, in subd. 1, par. (a), split off clause (5) from clause (4), renumbered clauses (5) to (8) as clauses (6) to (9), deleted a former clause (9), which related to criminal penalties, and added clauses (10) to (13), and added par. (b), relating to separate violations; added subd. 2, relating to civil penalties; added subd. 3, relating to criminal penalties, and added subd. 4, relating to settlements.

Laws 1991, c. 254, art. 3, § 14, in subd. 1, par. (a), cl. (12), added the provisions dealing with crops not harvested for reasons within the processor's control.

Laws 1991, c. 254, art. 3, § 30, provides in part that § 14 [amending subd. 1] is effective June 4, 1991, and covers contracts for the 1991 crop year.

Laws 1997, c. 7, art. 1, § 12, instructed the revisor of statutes to change all references to § 27.15 to § 27.14 in §§ 27.13, 27.14, 27.19, and 27.20, respectively.

Library References

Factors ⇐3.
Licenses ⇐40 et seq.
WESTLAW Topic Nos. 167, 238.

C.J.S. Agriculture §§ 4.5, 164, 171.
C.J.S. Factors § 4.
C.J.S. Licenses § 78 et seq.

Notes of Decisions

Construction and application 1

1. Construction and application

Unlicensed wholesale dealer could be prosecuted for buying veal without a license. Op. Atty.Gen., 832–J–9, Sept. 29, 1950.

A manufacturer of ice cream who makes butter in connection with the ice cream is engaged in conducting a creamery, and the "due date" would be that determined for creameries, but if manufacturer confines his activities solely to ice cream, the term "due date" as applied to creameries could not be applied to his business. Op.Atty.Gen.1938, No. 476, p. 697.

27.20. Enforcement

The commissioner shall be charged with the enforcement of the provisions of sections 27.01 to 27.14 and 27.19 and of the rules made and published thereunder. Upon complaint made it shall be the duty of the county attorney to prosecute all cases arising in the attorney's county for violation of sections 27.01 to 27.14 and 27.19, or of the rules made and published thereunder. The commissioner and duly authorized agents and inspectors appointed by the

commissioner for the purpose of enforcing the provisions of sections 27.01 to 27.14 and 27.19 shall have the power of police officers in this enforcement.

Amended by Laws 1955, c. 232, § 5; Laws 1961, c. 163, § 10; Laws 1985, c. 248, § 70; Laws 1986, c. 444; Laws 1997, c. 7, art. 1, § 12.

Historical and Statutory Notes

Derivation:

St.Supp.1940, § 6240–18½p.
Laws 1935, c. 186, § 3.
Laws 1931, c. 394, § 17.

Laws 1955, c. 232, § 5, corrected a citation.

Laws 1961, c. 163, § 10, corrected a citation.

Laws 1985, c. 248, § 70, instructed the revisor of statutes to delete references to regulations when referring to administrative rules adopted on the state level and replace them with references to rules, and in the phrase "rules and regulations" to delete "and regulations".

Laws 1986, c. 444, authorized the removal of nonsubstantive gender specific references.

Laws 1997, c. 7, art. 1, § 12, instructed the revisor of statutes to change all references to § 27.15 to § 27.14 in §§ 27.13, 27.14, 27.19, and 27.20, respectively.

Library References

Agriculture ⇐2.
Factors ⇐3.
WESTLAW Topic Nos. 23, 167.

C.J.S. Agriculture §§ 8 et seq., 51, 67, 96, 100, 134, 164, 171, 175.
C.J.S. Factors § 4.

Notes of Decisions

Bond 1, 2
Action on bond 2
Commissioner 1
Offenses and prosecutions 3

1. Bond—Commissioner

The commissioner of agriculture's faithful performance bond did not cover loss plaintiff sustained as result of failure to prosecute or proceed against wholesale dealer in produce, to whom plaintiff sold turkeys, for unlawfully doing business without a license, since commissioner's general duty to enforce law against wholesale dealers in produce involves exercise of judgment and discretion, and is not a "ministerial duty," nonperformance of which may result in liability to one proximately damaged by the nonfeasance. Cook v. Trovatten, 1937, 200 Minn. 221, 274 N.W. 165.

2. —— Action on bond

Shipper's action on bond of dealer was barred by shipper's failure to give notice of dealer's default to commissioner within 30 days after the "due date" defined by § 27.01 notwithstanding notice was given within 30 days after shipper had notice of dealer's default by dishonor of check. Leasure v. Clarkin, 1943, 214 Minn. 420, 8 N.W.2d 521.

Fact that wife of principal, on faithful performance bond of licensed dealer, acted as husband's assistant would not relieve surety from liability on bond for butter sold to principal, since fact that a principal conducts business through his subordinates or agents does not relieve a surety from liability. Trovatten v. Minea, 1942, 213 Minn. 544, 7 N.W.2d 390.

In proceeding to enforce conditions of produce dealer's bond, evidence sustained finding that plaintiffs had no notice that agent buying eggs from plaintiffs was acting contrary to instructions or in fraud of dealer's interests. Rausch v. Aronson, 1941, 211 Minn. 272, 1 N.W.2d 371.

3. Offenses and prosecutions

While the commissioner of agriculture would not have the authority to require a foreign chartered cooperative to submit to an audit, he could require the cooperative to present proof of its exemption from the wholesale produce dealers act upon information that the cooperative was doing business within the state and upon failure to comply, the commissioner could proceed against the cooperative via application for injunction to prohibit doing further business. Op.Atty.Gen., 832g, May 3, 1967.

Unlicensed wholesale dealer could be prosecuted for buying veal without a license. Op. Atty.Gen., 832–J–9, Sept. 29, 1950.

Chapter 27

WHOLESALE PRODUCE DEALERS

Section		Section	
27.01.	Definitions.	27.138.	Wholesale produce dealers' trust.
27.041.	Bonds; licenses.	27.185.	Repealed.
27.07.	Grades established; inspection.	27.19.	Violations, penalties.

27.01. Definitions

Subdivision 1. Repealed by Laws 1996, c. 310, § 1.

Subd. 2. Produce. "Produce" means:

(1) perishable fresh fruits and vegetables;

(2) milk and cream and products manufactured from milk and cream; and

(3) poultry and poultry products.

Subd. 3. Repealed by Laws 1996, c. 310, § 1.

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. "Due date" means ten days from the date of delivery of produce by the seller to the licensee 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 that accounting.

Subd. 6. Repealed by Laws 1996, c. 310, § 1.

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

Subd. 8. Wholesale produce dealer. (a) "Wholesale produce dealer" or "dealer at wholesale" means:

(1) a person who buys from or contracts with a seller for production or sale of produce in wholesale lots for resale;

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

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

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

(b) 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) 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) 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) a person who purchases Minnesota seasonally grown 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;

hapter 27

PRODUCE DEALERS

Section
27.138. Wholesale produce dealers' trust.
27.185. Repealed.
27.19. Violations, penalties.

c. 310, § 1.

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ıctured from milk and cream; and

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it. The term "voluntary extension of credit" means d the licensee wherein the time of payment for the ınd the due date.

s ten days from the date of delivery of produce by not specified in the contract. For purposes of this is a contract.

ns ten days from the date the sale is made by the essing plants, where the due date means 15 days ıbsequent to deliveries following the date fixed by ing.

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ıer" means the commissioner of the department of

(a) "Wholesale produce dealer" or "dealer at

with a seller for production or sale of produce in

a broker or agent, who handles or deals in produce

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r at wholesale" does not include:

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seasonally grown perishable fresh fruits and money of the United States, a cashier's check, a

(4) a person who handles and deals in only canned, packaged, or processed produce or packaged dairy products that are no longer 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.

Subd. 9. Repealed by Laws 1996, c. 310, § 1.

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.

Amended by Laws 2000, c. 477, § 24.

27.041. Bonds; licenses

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 determined by the commissioner with the maximum not to exceed $1,000,000. In lieu of the surety bond, the commissioner may accept a duly executed letter of credit. 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) payment when due, 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.

(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 this section.

(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. 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 expires June 30 following its issuance and must be renewed July 1 of each year.

(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 must include a $75 registration fee and an additional fee of .045 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 $2,000 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 $10 for each license identification truck decal.

(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.

Amended by Laws 2001, 1st Sp., c. 2, § 42.

27.07. Grades established; inspection

Subdivision 1. Commissioner's power. 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. Certificates. 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. Application for inspector's services. Any person who wants produce to be inspected 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, the commissioner may grant the service upon terms and conditions fixed by the commissioner and this section.

Subd. 4. Deposit agreement. 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 money remaining to the depositor's credit after the deduction of the costs at the time such agreement terminates.

Subd. 5. Fees. 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.

Subd. 6. Cooperative agreements; fees; account. The commissioner may collect fees as provided for in cooperative agreements between the commissioner and the United States Department of Agriculture for the inspection of fresh fruits, vegetables, and other products. The fees and interest attributable to money in the account must be deposited in the agricultural fund and credited to a fruit and vegetables inspection account. Money in the account, including interest earned, is appropriated to the commissioner to administer the cooperative agreements.

Amended by Laws 1999, c. 231, § 49.

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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 and the commissioner, and after filing in the central filing system under section 336.9–501 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.

(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 initial financing statement filed pursuant to this section the time of day and date of filing. The filing officer shall accept filings, amendments, and terminations of an initial financing statement filed pursuant to this section and charge the same filing fees as provided in section 336.9–525. An initial financing statement filed pursuant to this section 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 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.

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.

Amended by Laws 2001, c. 195, art. 2, §§ 1, 2, eff. July 1, 2001.

27.185. Repealed by Laws 2001, 1st Sp., c. 2, § 162

Historical and Statutory Notes

The repealed section, which related to the seizure and confiscation of motor vehicles, was derived from Laws 1990, c. 530, § 17.

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

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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.

Amended by Laws 2000, c. 477, § 25.

Chapter 28A

LICENSING FOOD HANDLERS

Section		Section	
28A.04.	License required; custom processing permit applications; renewals.	28A.082.	Food handler plan review fees.
28A.07.	Issuance of license.	28A.085.	Reinspection fees.
28A.075.	Delegation to local board of health.	28A.13.	Power to suspend or revoke licenses.
28A.0752.	Delegation of powers and duties.	28A.15.	Exclusions.
28A.08.	License fees; penalties.		FOOD SAFETY ADVISORY COMMITTEE
28A.081.	Certificate fees.	28A.20.	Food safety task force.