

Code of Alabama 1975



Title 2 Agriculture

Livestock Dealers' Financial Responsibility Act

Article 6, Section 2-15-130 ~ Section 2-15-138

Section 2-15-130

Short title.

This article shall be known and cited as the Alabama Livestock Dealers' Financial Responsibility Act.

(Acts 1969, No. 568, p. 1049, §1.)

Section 2-15-131

Definitions.

When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) BOARD. The Board of Agriculture and Industries of the State of Alabama.
- (2) COMMISSIONER. The Commissioner of Agriculture and Industries of the State of Alabama.
- (3) DEALER. Any person engaged in the business of buying livestock in the State of Alabama for resale, exchange or slaughter and meat packing purposes, either on his or her own account or as agent for others on a commission basis or otherwise.
- (4) DEPARTMENT. The Department of Agriculture and Industries of the State of Alabama.

(5) LIVESTOCK. Cattle, swine, sheep, goats, equidae, ratites, poultry, and catfish.

(6) LIVESTOCK MARKET. A place, concentration, or collection point or other public or private place where a person assembles livestock for either public or private sale by himself or herself and the service or the cost or expense thereof is compensated by the owner of the livestock on a commission basis or otherwise. The term does not include any of the following:

a. A place used on a temporary basis solely for the dispersal sale of the livestock of a farmer, dairy farmer, livestock breeder, or feeder who is discontinuing his or her business and where no other livestock is sold or offered for sale.

b. A farm, ranch, or place where livestock is raised or kept for the grazing season or for fattening and subsequently sold and where no other livestock is brought there for sale or offered for sale.

c. The premises of a butcher, packer, or processor that receives livestock exclusively for immediate slaughter.

d. A place where livestock is raised solely for breeding purposes and the owner exclusively sells animals he or she produced.

e. A place where a producer or an association of producers of livestock of any class assemble and sell or offer for sale any livestock, provided the producer or association manages the sale and assumes all responsibility for the sale and the title to the livestock sold.

f. A place used on a temporary basis solely for livestock sales of 4-H clubs, Future Farmers of America, or other similar youth organizations.

(7) LIVESTOCK MARKET OWNER. A person engaged in the business of conducting or operating a public livestock market whether personally or through agents or employees.

(8) PERSON. Any individual, partnership, corporation, association or other business unit.

(Acts 1969, No. 568, p. 1049, §2; Acts 1979, No. 79-774, p. 1376, §3; Acts 1984, 1st Ex. Sess., No. 84-797, p. 207, §1; Acts 1994, No. 94-322, p. 562, §6; Act 2017-226, §1.)

Section 2-15-132

Dealer license required; denial or revocation of license; appeal.

(a) No person may engage in the business of a dealer as defined in Section 2-15-131 without having a license therefor issued by the Commissioner of Agriculture and Industries, which license shall expire on December 31 and shall be renewable as of January 1 of each year.

(b) An application for a license or annual renewal of a license as required under subsection (a) of this section shall be filed with the commissioner upon a form furnished for this purpose accompanied by a fee established by the Board of Agriculture and Industries payable before issuance of such license. Such application shall state the full name and address of the person applying for the license, the name of each member of the firm or all officers, if a corporation or association, together with the location of the applicant's business operation and the general territory or area in which the applicant intends to buy livestock, and it shall also contain any other information deemed necessary by the commissioner for the administration of this article. License fees collected under this subsection shall be deposited in the State Treasury to the credit of the Agricultural Fund.

(c) Upon receipt of the application, payment of the license fee, and the furnishing of a bond as provided in this article, a license shall be issued entitling the applicant to engage in the business of a dealer. Notwithstanding the foregoing, a license shall be denied or revoked if the commissioner finds that the applicant: Has failed to comply with any of the provisions of this article; has failed to pay for livestock purchased; has given in payment for livestock purchased a check or draft which has been returned unpaid or dishonored without reasonable cause; is involved in any legal proceeding which may impair his or her ability to meet his or her financial obligations; has suffered a money judgment to be entered against him or her upon which execution has been returned unsatisfied; or has been guilty of fraud in applying for or obtaining a license or a renewal thereof as required by this article.

(d) Any person denied a license or any dealer whose license has been revoked by the commissioner may appeal the action to the board by filing a written request therefor with the board within 10 days after notice of denial or revocation of a license has been received. An appeal shall be heard by the board within 30 days following the date on which the appeal was filed. The filing of an appeal shall not suspend the revocation or denial of a license. The action of the board in refusing to grant or in

revoking any license may be reviewed by the Circuit Court of Montgomery County upon a complaint being filed in the circuit court, accompanied by a bond to be approved by the clerk, within 15 days after notice to the applicant or licensee of the board's decision. The complaint shall be styled in the name of the applicant or licensee as plaintiff against the commissioner as defendant and shall set forth the action complained of and request its reversal. The commissioner shall serve an answer within 30 days after the complaint is served upon him or her. The action shall be heard de novo by the court, and it shall be determined from the evidence whether the denial or revocation of the license is or is not justified under the provisions of this article. The decision shall be accordingly entered, subject to the right of appeal which is available as in other civil actions, and the decision shall be binding upon the parties. All appeal rights provided in this subsection shall not suspend the action of the commissioner in the revocation or denial of a license.

(Acts 1969, No. 568, p. 1049, §3; Acts 1976, No. 364, p. 450; Act 2004-516, p. 996, §1.)

Section 2-15-133

Bonds or bond equivalents; financial statements and reports; liability for payments.

(a) No license as required under Section 2-15-132 shall be issued or renewed until the applicant therefor shall make, execute, and thereafter maintain on file with the commissioner a bond or a bond equivalent as provided in subsection (f) in favor of the State of Alabama or a trustee to be approved by the commissioner to secure the performance of obligations incurred in the State of Alabama and the payment thereof to persons from whom such dealer purchases livestock. Except as otherwise provided in this subsection, the amount of each bond shall be not less than the next multiple of two thousand dollars (\$2,000) above the average amount of purchases of livestock purchased either as a dealer or on an agency basis in Alabama during a period equivalent to two business days based on the total number of business days and the total amount of such transactions during the preceding 12 months or in such substantial part thereof in which the applicant did business. For the purpose of this computation, 260 shall be deemed the number of business days in any year. Bonds above twenty-six thousand dollars (\$26,000) shall not be less than the next multiple of five thousand dollars (\$5,000) above the average amount of livestock purchased either as a dealer or on an agency basis in Alabama, computed as set out in this subsection. When the amount of a bond, calculated as required in this subsection, exceeds fifty thousand dollars (\$50,000), the amount of the

bond shall not exceed fifty thousand dollars (\$50,000) plus 10 percent of the excess, unless the commissioner has reason to believe that a bond in that amount is inadequate because of the volume of business conducted on a seasonal or otherwise irregular basis, in which event the commissioner shall determine and specify the amount of the bond to be required.

(b) In no case shall a bond covering the buying operations of a dealer be less than ten thousand dollars (\$10,000).

(c) If the applicant is a successor in business to a dealer subject to the requirements of this article, the bond of such applicant shall be in an amount not less than that required of the prior dealer, unless the commissioner finds that the amount of such a bond will be excessive and unnecessary. If the applicant has not been previously engaged in the business of a dealer subject to the requirements of this article, the bond of such applicant shall be in an amount equivalent to the estimated value of livestock purchases which it is anticipated such applicant will make during any two business days during the succeeding 12 months. The amount of such bond shall be subject to adjustment from time to time in accordance with subsection (e).

(d) Bonds required by subsection (a) shall be conditioned that the dealer or principal shall pay, when due to the person or persons entitled thereto, the purchase price of all livestock purchased in the State of Alabama by the dealer-principal for his or her own account or for the accounts of others and that the dealer-principal shall safely keep and properly disburse all funds, if any, which come into his or her hands for the purpose of paying for livestock purchased for the account of others. Bonds required by subsection (a) shall be written by a surety company qualified to do business in Alabama. Any person having a cause of action against a dealer for breach of the condition of the bond may bring a civil action against the principal and surety of such bond in any court of competent jurisdiction for recovery of the loss resulting from such breach of the condition of the bond. The aggregate liability of the surety for all such losses shall not exceed the amount of the bond. The bond shall contain a provision requiring not less than 15 days' written notice to the commissioner by the party terminating such bond in order to effect its termination.

(e) Whenever the commissioner finds that any bond required under this section is inadequate, such bond, upon notice from the commissioner, shall be increased to meet the requirements of this section or, in like manner, may be reduced if found to be in excess of the requirements of

this section. The amount of such bond shall not be increased or reduced by the commissioner, nor shall the amount of any bond be increased under authority of subsection (a) unless and until the board adopts rules prescribing the conditions under which bond increases or reductions will be required by the commissioner. The rules shall prescribe a uniform method and procedure to be followed by the commissioner in determining the amount of any bond increases or reductions that may be ordered by the commissioner because of being inadequate or excessive. All such bond increases and reductions as ordered by the commissioner as authorized under this subsection shall be reviewed by the board at its next quarterly or special call meeting for the purpose of determining whether the action of the commissioner in requiring an increase or reduction in the amount thereof is in compliance with the rules as prescribed by the board for this purpose.

(f) A bond equivalent may be filed or maintained in lieu of a bond. A bond equivalent shall be in the form of a trust fund agreement based upon cash or fully negotiable bonds of the United States government or of the State of Alabama. All provisions of this section relating to making, executing, filing, and maintaining bonds on file with the commissioner shall be applicable to such trust fund agreements.

(g) The above requirements for a bond or bond equivalent may be waived provided the dealer, "at the time of purchase," pays for all livestock purchased with United States currency (cash), money orders, or cashier's or certified checks. The dealer may also be required to submit verified statements to this effect.

(h) Every person engaged in the business of a dealer shall furnish annually and at such other times as the commissioner may designate or request verified financial statements and reports showing the volume and value of livestock purchased in Alabama and the names and addresses of all employees authorized to purchase livestock for such person and shall keep such books and records as the commissioner may require as being reasonably necessary to carry out the provisions and requirements of this section, and the commissioner or his or her duly authorized agent or agents shall have access to such books and records during the regular business hours of any business day for the purpose of examination, inspection, audit, or investigation of such dealer's operations. Any person who submits false information in making any report required under this subsection or who refuses the commissioner or his or her authorized agent access to such books and records as are required to be kept under this subsection shall be subject to Section 2-15-136.

(i) Every person engaged in the business of a dealer shall make full payment of the amount of each purchase of livestock to the person from whom such purchase was made not later than the close of the next business day following the date of the purchase; however, dealers engaged in the business of buying catfish shall make such payment not later than the close of 10 business days following the date of the purchase.

(j) Every person engaged in the business of a dealer, with regard to any purchase of livestock made by such dealer at a livestock market regulated by Sections 2-15-60 through 2-15-71, shall be liable for the payment of the amount of the livestock purchase made by the dealer whether the purchase was made by the dealer on his or her own account or as an agent for another, and with respect to such livestock purchases made as an agent for another, such liability shall exist without regard to the fact that the other party for whom the purchase was made shall also be liable for the payment of the amount of such purchase.

(Acts 1969, No. 568, p. 1049, §4; Acts 1979, No. 79-822, p. 1535; Acts 1984, No. 84-190, p. 297; Acts 1984, 1st Ex. Sess., No. 84-797, p. 207, §1; Act 2017-226, §1.)

Section 2-15-134

Acceptance of bonds given under federal Packers and Stockyards Act.

The commissioner is hereby authorized to accept a bond made by any dealer pursuant to the bonding requirements of the federal Packers and Stockyards Act, 1921, as amended, and any dealer presenting such a bond shall be deemed to have complied with the bonding provisions of Section 2-15-133; provided, that the amount of such bond equals or is greater than the amount required in said Section 2-15-133. If the amount of such bond does not satisfy the requirements of said Section 2-15-133, such bond shall be increased to such amount as will satisfy the requirements of said section, prior to issuance of a license to such dealer. Any dealer not required to file and maintain a bond or a bond equivalent pursuant to the requirements of the federal Packers and Stockyards Act, 1921, as amended, shall be required to file and maintain a bond for the amount as set forth under Section 2-15-133.

(Acts 1969, No. 568, p. 1049, §5.)

Ex. Sess., No. 84-797, p. 207, §1; Act 2017-226, §1.)

Section 2-15-135

Promulgation of rules and regulations for implementation of article.

The commissioner with the approval of the State Board of Agriculture and Industries is hereby authorized to promulgate such rules and regulations as may be necessary to carry out the evident intent and purposes of this article.

(Acts 1969, No. 568, p. 1049, §7.)

Section 2-15-136

Penalty for violations of provisions of article; injunctive proceedings to restrain operation by dealer in violation of provisions of article.

(a) Any person who shall engage in business as a dealer as defined in Section 2-15-131 without having a license as required by subsection (a) of Section 2-15-132 or any person who shall violate any of the other requirements of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished as prescribed by law for such offense.

(b) In addition to the penalty provided under subsection (a) of this section, the commissioner may apply by a petition to a circuit court, and such court or any judge thereof shall have jurisdiction, for cause shown, to grant a temporary restraining order or permanent injunction or both restraining and enjoining any person from engaging in the business of a dealer as defined in Section 2-15-131 in violation of any of the requirements of this article, or engaging in or continuing to engage in such business without having a license required by subsection (a) of Section 2-15-132 or after such license has been revoked in accordance with the provisions of subsection (c) of Section 2-15-132. Any temporary restraining order or permanent injunction issued under this subsection shall be issued without bond.

(Acts 1969, No. 568, p. 1049, §8.)

Section 2-15-137

Applicability of article.

The provisions of this article shall not apply to purchases of livestock bought by bona fide farmers or stockmen for grazing, feeding, dairying or breeding purposes when such livestock is held and kept for such purposes during a period of 15 days or more.

(Acts 1969, No. 568, p. 1049, §6.)

Section 2-15-138

Provisions of article cumulative and supplemental to Article 3 of chapter.

None of the provisions of this article shall be construed to repeal, amend, modify or otherwise change the provisions and requirements of Article 3 of this chapter, as it is hereby intended that the provisions of this article are cumulative and supplemental to such other requirements imposed upon livestock dealers by said provisions.

(Acts 1969, No. 568, p. 1049, §10.)