

CHAPTER 225

(HB 738)

AN ACT relating to stockyards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 261 IS CREATED TO READ AS FOLLOWS:

Stockyards and buying stations shall carry insurance on all livestock while the livestock are kept at the stockyards or buying stations in order to ensure that the livestock will be insured against injury or loss caused by catastrophic peril such as fire, windstorm, or similar occurrence.

Section 2. KRS 261.200 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) ~~"Persons" shall include any individual, firm, association, partnership or corporation;~~
- ~~(2)~~ "Department" means the Department of Agriculture;
- ~~(2)~~~~(3)~~ "Commissioner" means the Commissioner of Agriculture;
- ~~(3)~~~~(4)~~ "Board" means the State Board of Agriculture;
- ~~(4)~~~~(5)~~ "***Stockyard***" ~~"Stockyards" means any livestock yard, concentration point, packing plant, or any other public place where livestock is regularly assembled for sale or exchange and is bought, sold or exchanged at auction or upon a commission or other basis, but, specifically, it does not include individual sales conducted by or for future farmers and 4 H groups, county, state or private fairs and breed or livestock associations or individual sales conducted by or for a person at which livestock of such person's ownership is sold or exchanged on his own premises;~~
- ~~(6)~~ ~~"Posted stockyards"~~ means ***a facility*** ~~[stockyards]~~ regulated by the United States Secretary of Agriculture under the Packers and Stockyards Act, 1921 (42 Stat. 159) as amended, and regulations promulgated under these statutes by the Secretary of Agriculture. ***A stockyard includes any place, establishment, or facility commonly known as a stockyard or buying station, which is conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens or other enclosures and their appurtenances, in which livestock are received, held, or kept for sale or shipment in commerce;***
- ~~(5)~~~~(7)~~ "Owner or operator" means persons responsible for the operation of each individual ~~stockyard~~ ~~[stockyards];~~
- ~~(6)~~~~(8)~~ "***Market***" ~~[Sales]~~ agency" means ***any person engaged in the business of buying or selling in commerce livestock, either on his own account or as the employee or agent of the vendor or purchaser, or who furnishes stockyard or buying station services*** ~~[persons engaged in the business of buying or selling livestock on a commission basis];~~
- (7) "***Livestock dealer***" means ***any person, not a market agency, engaged in the business of buying or selling livestock in commerce, either of his own account or as the employee or agent of the vendor or purchaser;***
- (8) "***Farmer***" means ***a person who buys or sells livestock in connection with the operation of a business of breeding, growing, and feeding livestock as a part of an established farming enterprise and who does not follow a definite pattern in disposing of livestock; and***
- (9) "Livestock" ***means*** ~~[includes]~~ cattle, ***sheep***, swine, ***or goats*** ~~[and sheep]~~ of all kinds and species.

Section 3. KRS 261.210 is amended to read as follows:

The department shall administer and enforce the provisions of this chapter and ~~shall~~ ~~[is hereby authorized to formulate, adopt,]~~ promulgate ***administrative*** ~~[and enforce such rules and]~~ regulations ~~[as may be]~~ necessary to carry out the provisions of this chapter.

Section 4. KRS 261.230 is amended to read as follows:

- (1) The owner or operator of a ~~stockyard~~ ~~[stockyards]~~ shall file annually with the department, an application for a license to operate ~~the~~ ~~[such a]~~ business under the provisions of this chapter. ~~The~~ ~~[Such]~~ applications shall be

made on forms furnished by the department and shall state fully and correctly the nature of business to be conducted at the *stockyard*~~[stockyards]~~, the correct location and post office address, and any other additional information the department may require in accordance with the provisions of this chapter.

- (2) The owner or operator of each stockyard shall pay on or before July 1~~[1]~~ of each year a license fee of twenty-five dollars (\$25) plus ten dollars (\$10) for each scale operated in excess of one (1).
- (3) In the case of transfer of ownership of a *stockyard*~~[stockyards]~~ by purchase or otherwise, a new application ~~shall~~~~[must]~~ be filed with the department and a new license procured by the new owner before operation may continue.
- (4) In instances where two (2) or more stockyards are owned and operated by the same person, a separate application for a license shall be filed and an individual license procured for each stockyard.
- (5) Before issuing a license the department shall determine that the applicant has satisfactorily complied with the provisions of this chapter,~~[and]~~ with the applicable provisions of KRS Chapter 257, *and with the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b*.
- (6) *The department may refuse to grant, or may revoke or suspend any license issued under the provisions of this chapter for any violation of the provisions of this chapter, any applicable provision of KRS Chapter 257, or any applicable provision of the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b.*

Section 5. KRS 261.260 is amended to read as follows:

- (1) The owner or operator of any stockyard, *any market agency, or livestock dealer who is required to execute and maintain a surety bond in compliance with standards set out in the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b, or regulations promulgated thereto, shall forward a copy of the bond to the department*~~[shall furnish a bond payable to the department, as trustee for the farmer, for the protection of consignors to whom such owner or operator is unable to pay for livestock received. Said bond shall be in an amount equal to one half (1/2) an average day's receipts and shall be for not less than two thousand dollars (\$2,000) nor more than ten thousand dollars (\$10,000). This section shall not apply to posted stockyards].~~
- (2) *The owner or operator of any stockyard, market agency, or livestock dealer who is not required to file a surety bond under requirements in the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b, or the regulations promulgated thereto shall file with the department a surety bond issued by a surety company authorized to transact business within the Commonwealth of Kentucky, payable to the Commonwealth with the Commissioner as trustee. The terms, conditions, and amount of the bond shall be determined by administrative regulation*~~[An average day's receipts shall be the total receipts of the previous year divided by the number of sale days. In the case of a newly established stockyard the amount of initial bond required shall be determined by the board.~~
- ~~(3) The required bond shall not be transferable and shall be returned upon termination of operation of the stockyard to the bondee after satisfactory settlement with all consignors of livestock is made].~~

Section 6. KRS 261.270 is amended to read as follows:

All scales used in stockyards shall be *certified*~~[of a type registering with a balance indicator].~~ *The*~~[Such]~~ scales shall be tested at least every six (6) months by a scale agency approved by the department. Certification of *the*~~[such]~~ scales shall be exhibited before issuance or renewal of any stockyard license.~~[This section shall not apply to posted stockyards.]~~

Section 7. KRS 261.280 is amended to read as follows:

~~(1) The owner or operator of a stockyards shall furnish a bond to the department in the sum of one thousand dollars (\$1,000) with surety to be approved by the department, conditioned on the faithful performance by its weighmen of their duties. If any weighmaster willfully misrepresents or attempts to misrepresent the weight of any animal, the bond shall be forfeited and the proceeds paid into the State Treasury to be credited to the general fund. This section shall not apply to posted stockyards.~~

- ~~(2) All persons suffering loss imposed by the fraudulent act of such weighman may recover valid claims from said bond not to exceed the amount of bond. Payment shall be made from the general fund of the State Treasury to which said bond was credited.~~

~~(3)~~ It shall be unlawful for any weighman to misweigh or falsely report any weights or to otherwise fraudulently manipulate scales to produce a weight other than the true and actual weight of any livestock consigned to and sold at any stockyard.

Section 8. KRS 261.320 is amended to read as follows:

~~If~~~~When~~ the owner or operator of any licensed **stockyard**~~stockyards~~ in this state ~~is~~~~shall be~~ required by law or shall have any reason to utilize the services of a veterinarian, the~~said~~ veterinarian shall be chosen by the owner or operator of the stockyards, and may be relieved of his duties at the pleasure of the owner or operator. Any veterinarian so employed shall be ~~properly qualified and~~ licensed **by the Kentucky Board of Veterinary Examiners and accredited by the United States Department of Agriculture** ~~to do business in this state~~.

Section 9. KRS 261.350 is amended to read as follows:

~~(1)~~ Payment for livestock purchased **by market agencies or livestock dealers**~~at auction~~ shall be made **in full compliance with requirements under the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b, and regulations promulgated thereto** ~~within three (3) banking days of the purchase of the livestock, and the proceeds therefrom shall be deposited by the stockyard in the custodial account not later than three (3) banking days following the date of sale; except, the payment may be delayed longer than three (3) banking days if the stockyard and the purchaser of livestock agree in writing. Payment for livestock purchased at auction shall be made by cash, check, or draft. Loans shall not be made from the custodial account of any stockyard to any purchaser of livestock.~~

~~(2)~~ It shall be the duty and responsibility of each stockyard to report to the Commissioner of Agriculture within twenty four (24) hours after having knowledge that a check or draft issued in payment for livestock has been dishonored, and it shall be the duty and responsibility of the Commissioner of Agriculture to notify all stockyards of the fact of such dishonor.

~~(3)~~ Livestock shall mean livestock sold for food consumption.

~~(4)~~ The Department of Agriculture shall issue regulations to carry out the provisions of this section].

Section 10. KRS 261.990 is amended to read as follows:

~~(1)~~ Any person who violates any provision of KRS 261.240 shall be fined not less than twenty five dollars (\$25) nor more than one hundred dollars (\$100). Each failure to file the monthly report required by KRS 261.240 shall constitute a separate offense.

~~(2)~~ Any person who violates the provisions of KRS 261.280 or who attempts by any means to induce a weighman to falsely report the weight of any animal shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one thousand dollars (\$1,000) or by imprisonment for not more than one (1) year, or both.

~~(3)~~ Any person who violates any provision of this chapter ~~for which no other penalty is provided,~~ or any **administrative**~~rule or~~ regulation **promulgated thereunder**~~made under the authority thereof~~, or who refuses to pay the fees ~~herein~~ required **in this chapter**, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or shall be imprisoned for not more than three (3) months, or both.

~~(4)~~ Any person or stockyard that violates any provision of KRS 261.350 shall be fined not less than \$250 nor more than \$500.]

Section 11. KRS 257.990 is amended to read as follows:

(1) Any person who violates any regulation promulgated by the board under the provisions of this chapter, for the violation of which no other penalty is provided in this section, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for the first offense; for each subsequent offense he shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or be imprisoned not more than thirty (30) days, or both.

(2) Any person who violates KRS 257.040 shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

(3) Any person who violates KRS 257.050 shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) for the first offense; for each subsequent offense he shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.

- (4) Any person who violates subsection (1) of KRS 257.060 shall be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) for the first offense; for each subsequent offense he shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000), and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.
- (5) Any person who violates subsection (2) of KRS 257.060 shall be fined not more than one thousand dollars (\$1,000).
- (6) Any person who violates any of the provisions of KRS 257.080 or 257.180 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (7) Any person who violates any of the provisions of KRS 257.160 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for the first offense. For each subsequent offense, he shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or be imprisoned not more than thirty (30) days, or both.
- (8) Any person who violates any ruling of the board or who hinders any agent of the board in carrying out the duties assigned to him, or any officer who refuses to enforce the provisions of this chapter when called upon by the board to do so, or any other person who in any way attempts to hinder or obstruct the board in carrying out the provisions of this chapter shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) for each offense.
- (9) Any person who violates any provision of KRS 257.330 to 257.350 or the regulations made thereunder for carrying out their provisions, or who fails or refuses to comply with or intends to deceive, or who answers or represents falsely in response to any requirement of KRS 257.330 to 257.350, or who willfully interferes with the Office of State Veterinarian, their employees or agents, in the carrying out of their duties provided in KRS 257.330 to 257.350, shall be guilty of a misdemeanor. Any person who shall violate any of the provisions of KRS 257.330 to 257.350 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed five hundred dollars (\$500).
- (10) Any person, firm, or corporation who shall violate any provision of KRS 257.370 to 257.460 or any rule or regulation made under authority thereof shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed five hundred dollars (\$500) for each offense.
- (11) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with an officer under KRS 257.490 or who willfully refuses to obey his lawful orders shall be fined not more than one thousand dollars (\$1,000) or imprisoned in the county jail not more than thirty (30) days, or both.
- ~~(12) Any livestock dealer who violates any provision of KRS 257.530 shall be fined twenty five dollars (\$25) for the first offense and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each succeeding offense.~~

Section 12. KRS 257.520 is repealed, reenacted as a new section of KRS Chapter 261, and amended to read as follows:

No provision of KRS *Chapter 261*~~{257.510 to 257.530}~~ shall be construed as applicable to:

- (1) A farmer who sells only livestock which he has produced and raised on his premises,
- (2) A person who offers for sale or trade only livestock which he has owned or has in his possession for a period of thirty (30) days or longer and who is not regularly engaged in the business of buying, selling, trading or negotiating the transfer of livestock,
- (3) A person who purchases only livestock for feeding or breeding purposes and retains said livestock in his possession for a period of thirty (30) days or longer and who is not regularly engaged in the business of buying, selling, trading or negotiating the transfer of livestock,
- (4) A person engaged in the business of buying and slaughtering livestock for food and in marketing the meat products therefrom, provided all animals purchased are slaughtered,
- ~~(5) A person who is a duly authorized representative of the agricultural extension service or a college of the Commonwealth for the distribution of livestock in related programs,~~

- ~~(6)~~ A person engaged in the purchase or sale of livestock used exclusively for exhibition or entertainment purposes in the pursuit of a hobby.
- (6) *A person engaged in sales conducted by or for FFA and 4-H groups; county, state, or private fairs or shows; and breed or livestock associations.*

Section 13. KRS 257.530 is repealed, reenacted as a new section of KRS Chapter 261, and amended to read as follows:

- (1) No person shall engage in the business of being a livestock dealer without having first obtained a license from the ~~department~~~~[division]~~. Application for a license shall be made on a form provided by the ~~department~~~~[division]~~ and accompanied by a fee of ten dollars (\$10), payable to the Kentucky State Treasurer. The license shall expire on December 31 and shall be renewed annually. ~~[All license fees shall be deposited in a revolving fund to be used for the administration of KRS 257.510 to 257.540.]~~
- (2) Any livestock dealer shall maintain records of all transactions conducted by him for the next preceding two (2) year period, including the names and addresses of persons from whom he has purchased or to whom he has sold livestock and the date of the transactions ~~[and to] make the records available to department~~~~[division]~~ representatives upon request, *but shall not be required*; ~~[; provided, however, there shall be no requirement]~~ to maintain or furnish records or information as to the amount paid or received for any head of livestock.
- (3) The following acts by any livestock dealer shall be violations of this chapter and may result in a license being revoked or suspended by the Commissioner of Agriculture:
 - (a) *Failing*~~[Failure]~~ to maintain the records required under subsection (2) of this section;
 - (b) *Failing*~~[Failure]~~ to provide access to ~~department~~~~[division]~~ representatives of records;
 - (c) Buying or selling livestock under an assumed name or address; and
 - (d) *Violating*~~[Violation]~~ of any valid *administrative* regulation or statute governing disease control.
- (4) ~~If~~~~[Whenever]~~ the Commissioner has reasonable cause to believe any provision of *this chapter*~~[KRS 257.510 to 257.540]~~ is being or has been violated by any livestock dealer, the Commissioner shall notify the livestock dealer that his license *may*~~[shall]~~ be suspended or revoked. ~~[Suspension or revocation shall be effective ten (10) days from the date of the mailing of the notice, unless the livestock dealer requests a hearing in writing within the ten (10) day period. Any request for a hearing shall be directed to the Commissioner and upon receipt a hearing shall be conducted in accordance with KRS Chapter 13B.]~~
- ~~(5) The final order of the Commissioner may be reviewed by the Franklin Circuit Court in accordance with KRS Chapter 13B.]~~

Section 14. KRS 257.540 is repealed and reenacted as a new section of KRS Chapter 261, and amended to read as follows:

Notwithstanding any provision of the law to the contrary, the Department of Agriculture shall not enact any *administrative* regulations prohibiting the rights of buyers of any livestock to purchase ~~the~~~~[such]~~ livestock.

Section 15. The following KRS sections are repealed:

257.510 Definitions for KRS 257.520 and 257.530.

261.290 Refusal, revocation and suspension of licenses.

Approved April 22, 2006.