

CHAPTER 28

(SB 92)

AN ACT relating to agriculture.

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

➔Section 1. KRS 261.200 is amended to read as follows:

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

- (1) "Department" means the *Kentucky* Department of Agriculture;
- (2) "Commissioner" means the Commissioner of Agriculture;
- (3) "Board" means the State Board of Agriculture;
- (4) "Stockyard" means a facility regulated by:
 - (a) 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; *or*
 - (b) *The department under this chapter and administrative regulations promulgated under this chapter.*

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) *"Buying station" means a facility that is conducted, operated, or managed as a private livestock market that offers stockyard services;*
- (6) *"Stockyard services" means services or facilities furnished at a stockyard or buying station in connection with the:*
 - (a) *Receiving, buying, or selling of livestock in commerce on a commission basis or otherwise; or*
 - (b) *Marketing, feeding, watering, holding, delivering, shipping, weighing, or handling of livestock in commerce;*
- (7) "Owner or operator" means persons responsible for the operation of each individual stockyard *or buying station*;
- ~~(8)~~~~(6)~~ "Market agency" means *a person engaged in the business of:*
 - (a) *Buying or selling livestock in commerce on a commission basis; or*
 - (b) *Furnishing stockyard services*~~[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];~~
- ~~(9)~~~~(7)~~ "Livestock dealer" means any person, not a market agency, *who:*
 - (a) *Is regularly engaged in the business of buying or selling livestock in commerce, either on his or her own account or as the employee or agent of the vendor or purchaser; or*
 - (b) *Owns or operates a buying station*~~[engaged in the business of buying or selling livestock in commerce, either on 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~~
- ~~(10)~~~~(9)~~ "Livestock" means cattle, sheep, swine, or goats of all kinds and species.

➔Section 2. KRS 261.230 is amended to read as follows:

- (1) The owner or operator of a stockyard *or buying station* shall file annually with the department an application for a license to operate the business under the provisions of this chapter. The 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 *or buying station*, 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 *or buying station* shall pay on or before July 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 *or buying station* by purchase or otherwise, a new application shall be filed with the department and a new license procured by the new owner *or operator* before operation may continue.
- (4) In instances where two (2) or more stockyards *or buying stations* 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 *or buying station*.
- (5) *Each stockyard shall annually identify all dealers that conduct business within the stockyard and shall verify that the dealers are properly licensed and bonded.*
- (6) Before issuing a license, the department shall determine that the applicant has satisfactorily complied with the provisions of this chapter, with the applicable provisions of KRS Chapter 257, and with the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b.
- ~~(7)~~~~(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 3. KRS 261.240 is amended to read as follows:

The owner or operator of each stockyard *or buying station* shall file with the department, at the beginning of each month, a sworn statement showing the exact number of livestock received and sold at that *stockyard or buying station* ~~stockyards~~ during the preceding month. ~~The~~~~Such~~ statements shall be made on forms furnished by the department.

➔Section 4. KRS 261.250 is amended to read as follows:

Each stockyard *or buying station* owner or licensee shall, during ordinary business hours, permit any authorized representative of the department to enter his *or her* place of business and inspect any or all property in his *or her* possession or control, and all records pertaining to the business of the stockyard *or buying station* owner or licensee, and make copies *of the records* ~~thereof~~. Any necessary facilities for ~~the~~~~such~~ inspection shall be extended to ~~the~~~~such~~ representative by the stockyard *or buying station* owner or licensee.

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

- (1) The owner or operator of any stockyard *or buying station*, any market agency, or *any* livestock dealer who is required to execute and maintain a surety bond *or other security instrument or agreement* in compliance with standards set out in the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b or regulations promulgated *under the act* ~~hereto~~ shall forward a copy of the bond *or other security instrument or agreement* to the department.
- (2) The owner or operator of any stockyard *or buying station*, *any* market agency, or *any* livestock dealer who is not required to file a surety bond *or other security instrument or agreement* under requirements in the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b or the regulations promulgated *under the act*, ~~hereto~~ 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, *or other security instrument or agreement required by the Commissioner*. The terms, conditions, and amount of the bond *or other security instrument or agreement* shall be determined by administrative regulation.
- (3) *In instances where two (2) or more stockyards or buying stations are owned and operated by the same person, each affiliated stockyard or buying station shall be required to show proof of credit worthiness independent of the other affiliates and shall be required to meet the provisions of subsection (1) or (2) of this section.*

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

All scales used in stockyards *or buying stations* shall be certified. The scales shall be tested at least every six (6) months by a scale agency approved by the department. Certification of the scales shall be exhibited before issuance or renewal of any stockyard *or buying station* license.

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

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 *or buying station*.

➔Section 8. KRS 261.990 is amended to read as follows:

- (1) Any person who violates any provision of this chapter or any administrative regulation promulgated *under this chapter*~~[thereunder]~~, or who refuses to pay the fees 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.
- (2) *In determining the fine for violations of KRS 261.350, each head of livestock that is not paid for in compliance with that section shall be considered a separate offense.*
- (3) *In addition to the penalties provided in subsection (1) of this section, the Commissioner of Agriculture may issue a stop movement order on livestock to any person required to be licensed or bonded under this chapter who:*
 - (a) *Sells, buys, or otherwise markets livestock without a dealer or market agency license;*
 - (b) *Sells or otherwise markets livestock without a current bond or other security instrument or agreement in the sufficient required amount on file with the department; or*
 - (c) *Fails to remit or pay fines owed to the department.*
- (4) *The department or the Office of the Attorney General may recover fees or administrative penalties in a civil action brought by the Commonwealth of Kentucky.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 261 IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall engage in the business of being a market agency without having first obtained a license from the department. Application for a license shall be made on a form provided by the department 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.*
- (2) *The terms and conditions for the licensure of market agencies shall be established by administrative regulation promulgated by the department.*
- (3) *If the department determines that a person is required to be licensed both as a dealer and a market agency, then that person shall be required to pay for only one (1) license, but shall be required to obtain both licenses and comply with the requirements of both licenses.*

➔Section 10. KRS 261.370 is amended to read as follows:

No provision of KRS Chapter 261 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;
- ~~(2)~~~~(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;
- ~~(3)~~~~(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;
- ~~(4)~~~~(5)~~ A person engaged in the purchase or sale of livestock used exclusively for exhibition or entertainment purposes in the pursuit of a hobby; and
- ~~(5)~~~~(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.

Signed by Governor April 6, 2012.

