

R.S. 4:11-15⁻

LEGISLATIVE FACT SHEET

ON

N.J.R.S. 4:11-15 ("Cash Buyers" - License)
(1966 Amendment)

LAWS OF 1966

CHAPTER 76

SENATE 261

~~ASSEMBLY~~

INTRODUCED Mar 7, 1966

BY Waddington, Forsythe

STATEMENT

YES

NO

AMENDED DURING PASSAGE

YES

NO

HEARING .

VETO

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SENATE, No. 261

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1966

By Senators WADDINGTON and FORSYTHE

Referred to Committee on Agriculture, Conservation and Economic Development

AN ACT concerning the licensing and bonding of commission merchants, dealers, and brokers, and amending sections 4:11-15, 4:11-16, 4:11-19, 4:11-20, 4:11-21 and supplementing article 2 of chapter 11 of Title 4 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 4:11-15 of the Revised Statutes is amended to read as follows:

2 4:11-15. As used in this article:

3 "Agent" means any person receiving, buying, soliciting or negotiating
4 the sale of any perishable agricultural commodity or hay, straw or grain or
5 any one or more of them from the grower thereof for or on behalf of any
6 commission merchant, dealer or broker.

7 "Agricultural commodity" means any perishable agricultural commod-
8 ity or hay, straw or grain or any one or more of them, as the case may be.

9 "Broker" means any person engaged in the business of soliciting or
10 negotiating the sale of any perishable agricultural commodity or hay, straw
11 or grain or any one or more of them on behalf of the grower.

12 "Commission merchant" means any person engaged in the business of
13 soliciting or receiving any perishable agricultural commodity for sale on
14 commission on behalf of the grower thereof.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

15 "Dealer" means any person engaged in the business of buying any agri-
16 cultural commodity from the grower thereof for the purpose of shipping or
17 for sale, resale or manufacture.

18 "*Cash buyer*" means any dealer, broker or agent who pays cash in
19 United States currency at time of transaction for goods received.

20 "Eggs" means avian eggs of the kind produced and used for human
21 food including the eggs of chickens, turkeys, ducks, geese and guineas, but
22 not those sold or resold for purposes of laboratory or biological uses.

23 "Grower" means any person engaged in the business of growing or
24 producing any agricultural commodity in this State, or any agricultural co-
25 operative association organized pursuant to the provisions of chapter 13 of
26 this Title.

27 "Perishable agricultural commodity" means any fruit or vegetable of
28 every kind, including those frozen or packed in ice, and any poultry product.

29 "Poultry product" means live poultry and eggs as defined in this act,
30 when purchased in wholesale quantities from a grower, or his agent, or a
31 marketing association for sale or resale for human consumption or hatching
32 purposes.

33 "Poultry" means domestic fowl, including all marketing classifications
34 of chickens, turkeys, ducks, geese and guineas, not sold for show or breed-
35 ing purposes.

36 "Secretary" means the Secretary of Agriculture.

37 "*Board*" means the State Board of Agriculture.

1 2. Section 4:11-16 of the Revised Statutes is amended to read as follows:

2 4:11-16. This article shall not apply to [any transaction in which the
3 grower receives in cash at the time of the transaction full payment of the
4 amount due him, or to] any duly incorporated agricultural co-operative as-
5 sociation in its dealings with its members or to any agent, broker, commis-
6 sion merchant or dealer who purchases only poultry products exclusively
7 from duly incorporated agricultural co-operative associations.

1 3. Section 4:11-19 of the Revised Statutes is amended to read as follows:
2 4:11-19. A person before engaging in such business shall on or before
3 April 1 of each year, file an application *for a license* with the secretary, on
4 a form prescribed by him, and pay [a \$5.00 license fee,] *an application fee*
5 *of \$15.00 which shall not be returned if the license is not granted*, for a li-
6 cense to transact such business.

7 The application shall state the nature of the business, the kinds of agri-
8 cultural commodities which the applicant proposes to handle and if they be
9 perishable agricultural commodities then the kinds of perishable agricultural
10 commodities which the applicant proposes to handle, the full name of the
11 person applying for the license, and if the applicant be a firm, association,
12 partnership, or corporation, the full name of each member of the firm, part-
13 nership or association, or officers of the corporation, and the name of the
14 local agent of the person, firm, association, partnership or corporation, the
15 municipality and street address, if any, or post-office address, where the busi-
16 ness is to be conducted, and such other facts as the secretary shall prescribe.

17 The applicant shall satisfy the secretary of his character, financial re-
18 sponsibility and good faith in seeking to engage in the business.

1 4. Section 4:11-20 of the Revised Statutes is amended to read as follows:

2 4:11-20. A license shall not be issued *except to a cash buyer* unless and
3 until the applicant has filed a good and sufficient surety bond executed in
4 favor of the secretary in his official capacity, for the benefit of all growers
5 with whom the applicant shall transact business, by a surety company duly
6 authorized to transact business in this State in the sum of at least \$3,000.00,
7 *except that any bond for a license to engage in or carry on the business of*
8 *agent, broker, commission merchant, or dealer for the purchase of eggs only*
9 *shall be in the sum of at least \$1,000.00*, conditioned for the payment of all
10 moneys due and owing by the licensee to such grower or growers during the
11 period that the license is in force. The bond shall be executed upon a form
12 prescribed by the secretary and shall be subject to his approval as to form
13 and sufficiency. The applicant may in lieu of the bond deposit with the sec-

14 retary United States Government securities in an amount equal to the sum
 15 secured by the bond required to be filed as herein provided. Such securities
 16 so deposited with the secretary shall constitute a separate fund and shall
 17 be held in trust for and applied exclusively to the payment of claims arising
 18 under the provisions of this article against the licensee making such deposit
 19 for the period for which such license is issued. All proceeds from surety
 20 bonds, money or securities shall be distributed to the grower-creditors by
 21 the secretary.

22 The secretary may require a licensee to file an additional bond, to be
 23 executed as provided in this section, in the sum to be determined by the
 24 secretary, but the maximum amount of the bond shall not exceed \$25,000.00.

1 5. Section 4:11-21 of the Revised Statutes is amended to read as follows:

2 4:11-21. Upon the filing and approval of the application and bond or
 3 securities, as the case may be, *or upon the filing and approval of the appli-*
 4 *cation of a cash buyer,* the secretary shall thereupon issue to the applicant
 5 or his agent a license entitling the applicant or the agent to conduct the busi-
 6 ness of receiving, buying, soliciting or negotiating the sale of perishable
 7 agricultural or other agricultural commodities on behalf of the grower, of
 8 the kind or kinds, and at the place named in the application, which license
 9 shall expire on April 30 next following its date of issuance.

1 6. The board may make such rules and regulations as may be necessary
 2 for the proper enforcement of the provisions of this article.

1 7. This act shall take effect May 1, 1967.

STATEMENT

The purpose of this bill is to modernize the present law by requiring the
 licensing of cash buyers, heretofore exempt, but without requiring a bond. This
 will give enforcement officials more accurate knowledge of which buyers are
 claiming to be paying cash (United States currency, not checks) at time of the
 transaction, and making possible the examination of records if and when
 necessary.

There have been 7 documented cases in the past 8 years in which buyers, having claimed to be cash buyers, nevertheless on occasion did a credit business without bond, with losses in worthless checks or failure to pay amounting to as much as \$870.00 in one instance. California and Washington are examples of 2 States that require cash buyers to be so licensed without bond.

Further, the bill restores a special minimum bond for agents, brokers, commission merchants or dealers who purchase eggs only, a provision which existed in this law prior to 1962. Experience has shown that there are a number of egg dealers whose business does not justify requiring a minimum bond of \$3,000.00 as at present; a \$1,000.00 minimum bond would be more realistic.

In addition, the fee becomes an application fee rather than a license fee, and is nonreturnable, a recommendation made by the State Auditor's office. The fee has been increased so that all fees for the several licenses required in chapters 5, 11 and 12 of the Revised Statutes will be equal.