

4: 11-15, 16

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Legislative Notes on R.S. 4:11-15,16
(Agricultural commodities license - exempt if pay cash)

L. 1969, Chapter 141 - A501
Introduced February 11, 1969 by Garcia, Cafiero, Murley.
Statement was made. (Copy enclosed)
Not amended *during passage*

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ASSEMBLY, No. 501

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 11, 1969

By Assemblyman CURCIO

Referred to Committee on Commerce, Industry and Professions

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

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

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

3 4:11-15. As used in this article:

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

9 "Agricultural commodity" means any perishable agricultural
10 commodity or hay, straw or grain or any one or more of them, as
11 the case may be.

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

16 "Commission merchant" means any person engaged in the busi-
17 ness of soliciting or receiving any perishable agricultural commod-
18 ity for sale on commission on behalf of the grower thereof.

19 "Dealer" means any person engaged in the business of buying
20 any agricultural commodity from the grower thereof for the pur-
21 pose of shipping or for sale, resale or manufacture.

22 ["Cash buyer" means any dealer, broker or agent who pays
23-33 cash in United States currency at time of transaction for goods
34 received.]

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

35 “Eggs” means avian eggs of the kind produced and used for
 36 human food including the eggs of chickens, turkeys, ducks, geese
 37 and guineas, but not those sold or resold for purposes of laboratory
 38 or biological uses.

39 “Grower” means any person engaged in the business of growing
 40 or producing any agricultural commodity in this State, or any
 41 agricultural co-operative association organized pursuant to the
 42 provisions of chapter 13 of this Title.

43 “Perishable agricultural commodity” means any fruit or vege-
 44 table of every kind, including those frozen or packed in ice, and
 45 any poultry product.

46 “Poultry product” means live poultry and eggs as defined in
 47 this act, when purchased in wholesale quantities from a grower,
 48 or his agent, or a marketing association for sale or resale for
 49 human consumption or hatching purposes.

50 “Poultry” means domestic fowl, including all marketing classi-
 51 fications of chickens, turkeys, ducks, geese and guineas, not sold
 52 for show or breeding purposes.

53 “Secretary” means the Secretary of Agriculture.

54 “Board” means the State Board of Agriculture.

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

3 4:11-16. This article shall not apply to *any transaction in which*
 4 *the grower receives in United States currency at the time of the*
 5 *transaction full payment of the amount due him, or to any duly*
 6 *incorporated agricultural co-operative association in its dealings*
 7 *with its members or to any agent, broker, commission merchant or*
 8 *dealer who purchases only poultry products exclusively from duly*
 9 *incorporated agricultural co-operative associations.*

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

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

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

25 The secretary may require a licensee to file an additional bond,
 26 to be executed as provided in this section, in the sum to be deter-
 27 mined by the secretary, but the maximum amount of the bond shall
 28 not exceed \$25,000.00.

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

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

1 5. This act shall take effect May 1, 1970.

STATEMENT

This amendment reinstates the former statutory exemption from licensing requirements of persons purchasing agricultural commodities from New Jersey farmers and making payment in full in United States currency (cash) at the time of the transaction.

It appears that the present requirement that such buyers be licensed has worked an undue hardship on growers making small, occasional purchases in connection with their roadside marketing of fresh fruits and vegetables.

The organizations in favor of this amendment include: The Cape May County Board of Agriculture, the Atlantic County Board of Agriculture, the New Jersey Farm Bureau and the New Jersey Certified Farm Markets Association.