

CHAPTER 81 LAWS OF N. J. 1962

APPROVED 6-18-62

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 129

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1962

By Senators BOWKLEY and WADDINGTON

Referred to Committee on Agriculture, Conservation and Economic Development

AN ACT requiring the licensing and bonding of agents, brokers, commission merchants and dealers receiving, buying or negotiating the sale of [hay, straw or grain] *certain agricultural commodities* and amending sections 4:11-15, 4:11-19, *4:11-20*, 4:11-21, 4:11-22, 4:11-26 and 4:11-32 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 fol-
2 lows:

3 4:11-15. Definitions. As used in this article: "Agent" means any per-
4 son receiving, buying, soliciting or negotiating the sale of any perishable agri-
5 cultural commodity *or hay, straw or grain or any one or more of them* from
6 the grower thereof for or on behalf of any commission merchant, dealer or
7 broker.

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

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

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

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

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

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 not
22 those sold or resold for purposes of [hatching and] laboratory or biological
23 uses.

24 "Grower" means any person engaged in the business of growing or
25 producing any [perishable] agricultural commodity in this State, or any
26 agricultural co-operative association organized pursuant to the provisions
27 of chapter 13 of this Title (§ 4:13-1 et seq.).

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

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

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

36 "Secretary" means the Secretary of Agriculture.

1 2. 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 with the secretary, on a form pre-
4 scribed by him, and pay a \$5.00 license fee, for a license to transact such
5 business.

6 The application shall state the nature of the business, *the kinds of agri-*
7 *cultural commodities which the applicant proposes to handle and if they be*
8 *perishable agricultural commodities then the kinds of perishable agricultural*

9 commodities which the applicant proposes to handle, the full name of
10 the person applying for the license, and if the applicant be a firm, associa-
11 tion, partnership, or corporation, the full name of each member of the firm,
12 partnership or association, or officers of the corporation, and the name of the
13 local agent of the person, firm, association, partnership or corporation, the
14 municipality and street address, if any, or post-office address, where the busi-
15 ness is to be conducted, and such other facts as the secretary shall prescribe.

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

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

2 *4:11-20. A license shall not be issued unless and until the applicant has*
3 *filed a good and sufficient surety bond executed in favor of the secretary in his*
4 *official capacity, for the benefit of all growers with whom the applicant shall*
5 *transact business, by a surety company duly authorized to transact business*
6 *in this State in the sum of at least \$3,000.00, [except that any bond for a per-*
7 *son applying for a license to engage in or carry on the business of agent,*
8 *broker, commission merchant, or dealer for the purchase of eggs only shall be*
9 *in the sum of at least \$500.00,] conditioned for the payment of all moneys due*
10 *and owing by the licensee to such grower or growers during the period that the*
11 *license is in force. The bond shall be executed upon a form prescribed by the*
12 *secretary and shall be subject to his approval as to form and sufficiency. The*
13 *applicant may in lieu of the bond deposit with the secretary United States*
14 *Government securities in an amount equal to the sum secured by the bond*
15 *required to be filed as herein provided. Such securities so deposited with the*
16 *secretary shall constitute a separate fund and shall be held in trust for and*
17 *applied exclusively to the payment of claims arising under the provisions of*
18 *this article against the licensee making such deposit for the period for which*
19 *such license is issued. All proceeds from surety bonds, money or securities*
20 *shall be distributed to the grower-creditors by the secretary.*

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

1 [3.] 4. Section 4:11-21 of the Revised Statutes is amended to read as
1A follows:

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

1 [4.] 5. Section 4:11-22 of the Revised Statutes is amended to read as
1A follows:

2 4:11-22. No agent shall receive, buy, solicit or negotiate the sale of
3 any [perishable] agricultural commodity in this State on behalf of any com-
4 mission merchant, dealer or broker unless such agent has been designated by
5 a duly licensed commission merchant, dealer or broker to so act and unless
6 such commission merchant, dealer or broker has notified the secretary in his
7 application for license or given notice in writing of such designation and has
8 requested the secretary to issue to the agent an agent's license.

1 [5.] 6. Section 4:11-26 of the Revised Statutes is amended to read as
1A follows:

2 4:11-26. The secretary may refuse to grant or may revoke a license for
3 the following causes:

4 a. Where the licensee has made a general assignment for the benefit of
5 creditors or has been adjudged a bankrupt or is insolvent or where a money
6 judgment has been secured against him, upon which an execution has been
7 returned unsatisfied;

8 b. Where there has been a failure to account for or make prompt settle-
9 ment for any [perishable] agricultural commodities received, bought, solici-
10 ited or negotiated;

11 c. Where any false statement has been made as to condition, quality or
12 quantity of [perishable] agricultural commodities received or bought or
13 where the sales were negotiated or held for sale on commission when the
14 same might have been known on reasonable inspection;

15 d. Where there has been a continual course of dealings of such a nature
16 as to satisfy the secretary of the inability or unwillingness of the licensee,
17 or his agent, to properly conduct the business of receiving, buying, soliciting
18 or negotiating the sale of [perishable] agricultural commodities on behalf
19 of the grower thereof;

20 e. Where the licensee has been duly required to file an additional bond
21 and has failed to do so;

22 f. Where there has been a continued and persistent failure to keep the
23 records required by the secretary or by law; or where there has been a re-
24 fusal on the part of the licensee to produce books, accounts or records of
25 transactions in carrying on the business for which such license is granted.

1 [6.] 7. Section 4:11-32 of the Revised Statutes is amended to read as
1A follows:

2 4:11-32. The licensee and each of his agents shall at all times when
3 receiving, buying, soliciting or negotiating the sale of [perishable] agricul-
4 tural commodities carry an agent's license which shall be exhibited to growers
5 or to the officers of any agricultural co-operative association which deals only
6 with its members and organized pursuant to the provisions of chapter 13 of
7 this Title (§ 4:13-1 et seq.) when negotiating business with them, or to the
8 secretary or assistant whom he may designate, upon request.

1 [7.] 8. This act shall take effect [immediately] [*on the sixty-first day*
2 *following the date of enactment*] *immediately but shall remain inoperative for*
3 *60 days thereafter.*

[OFFICIAL COPY REPRINT]

SENATE, No. 129

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1962

By Senators BOWKLEY and WADDINGTON

Referred to Committee on Agriculture, Conservation and Economic Development

AN ACT requiring the licensing and bonding of agents, brokers, commission merchants and dealers receiving, buying or negotiating the sale of hay, straw or grain and amending sections 4:11-15, 4:11-19, 4:11-21, 4:11-22, 4:11-26 and 4:11-32 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
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1 1. Section 4:11-15 of the Revised Statutes is amended to read as fol-
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3 4:11-15. Definitions. As used in this article: "Agent" means any per-
4 son receiving, buying, soliciting or negotiating the sale of any perishable agri-
5 cultural commodity *or hay, straw or grain or any one or more of them* from
6 the grower thereof for or on behalf of any commission merchant, dealer or
7 broker.

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

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

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

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

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

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 not
22 those sold or resold for purposes of hatching and laboratory or biological
23 uses.

24 "Grower" means any person engaged in the business of growing or
25 producing any [perishable] agricultural commodity in this State, or any
26 agricultural co-operative association organized pursuant to the provisions
27 of chapter 13 of this Title (§ 4:13-1 et seq.).

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

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

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

36 "Secretary" means the Secretary of Agriculture.

1 2. 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 with the secretary, on a form pre-
4 scribed by him, and pay a \$5.00 license fee, for a license to transact such
5 business.

6 The application shall state the nature of the business, *the kinds of agri-*
7 *cultural commodities which the applicant proposes to handle and if they be*
8 *perishable agricultural commodities then the kinds of perishable agricultural*

9 commodities which the applicant proposes to handle, the full name of
 10 the person applying for the license, and if the applicant be a firm, associa-
 11 tion, partnership, or corporation, the full name of each member of the firm,
 12 partnership or association, or officers of the corporation, and the name of the
 13 local agent of the person, firm, association, partnership or corporation, the
 14 municipality and street address, if any, or post-office address, where the busi-
 15 ness is to be conducted, and such other facts as the secretary shall prescribe.

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

1 3. 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, the secretary shall thereupon issue to the ap-
 4 plicant or his agent a license entitling the applicant or the agent to conduct
 5 the business of receiving, buying, soliciting or negotiating the sale of perish-
 6 able agricultural *or other agricultural* commodities on behalf of the grower,
 7 *of the kind or kinds, and* at the place named in the application, which license
 8 shall expire on April 30 next following its date of issuance.

1 4. Section 4:11-22 of the Revised Statutes is amended to read as follows:

2 4:11-22. No agent shall receive, buy, solicit or negotiate the sale of
 3 any [perishable] agricultural commodity in this State on behalf of any com-
 4 mission merchant, dealer or broker unless such agent has been designated by
 5 a duly licensed commission merchant, dealer or broker to so act and unless
 6 such commission merchant, dealer or broker has notified the secretary in his
 7 application for license or given notice in writing of such designation and has
 8 requested the secretary to issue to the agent an agent's license.

1 5. Section 4:11-26 of the Revised Statutes is amended to read as follows:

2 4:11-26. The secretary may refuse to grant or may revoke a license for
 3 the following causes:

4 a. Where the licensee has made a general assignment for the benefit of
 5 creditors or has been adjudged a bankrupt or is insolvent or where a money

6 judgment has been secured against him, upon which an execution has been
7 returned unsatisfied;

8 b. Where there has been a failure to account for or make prompt settle-
9 ment for any [perishable] agricultural commodities received, bought, solici-
10 ited or negotiated;

11 c. Where any false statement has been made as to condition, quality or
12 quantity of [perishable] agricultural commodities received or bought or
13 where the sales were negotiated or held for sale on commission when the
14 same might have been known on reasonable inspection;

15 d. Where there has been a continual course of dealings of such a nature
16 as to satisfy the secretary of the inability or unwillingness of the licensee,
17 or his agent, to properly conduct the business of receiving, buying, soliciting
18 or negotiating the sale of [perishable] agricultural commodities on behalf
19 of the grower thereof;

20 e. Where the licensee has been duly required to file an additional bond
21 and has failed to do so;

22 f. Where there has been a continued and persistent failure to keep the
23 records required by the secretary or by law; or where there has been a re-
24 fusal on the part of the licensee to produce books, accounts or records of
25 transactions in carrying on the business for which such license is granted.

1 6. Section 4:11-32 of the Revised Statutes is amended to read as follows:

2 4:11-32. The licensee and each of his agents shall at all times when
3 receiving, buying, soliciting or negotiating the sale of [perishable] agricul-
4 tural commodities carry an agent's license which shall be exhibited to growers
5 or to the officers of any agricultural co-operative association which deals only
6 with its members and organized pursuant to the provisions of chapter 13 of
7 this Title (§ 4:13-1 et seq.) when negotiating business with them, or to the
8 secretary or assistant whom he may designate, upon request.

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2 *lowing the date of enactment.*

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ASSEMBLY COMMITTEE AMENDMENTS TO

SENATE, No. 129

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED FEBRUARY 19, 1962

Amend page 1, title, lines 2 and 3, delete "hay, straw or grain", insert "certain agricultural commodities".

Amend page 1, title, line 3, after "4:11-19", insert "4:11-20".

Amend page 2, section 1, line 22, delete "hatching and".

Amend page 2, section 1, line 32, before the ".", insert "or hatching purposes".

Amend page 3, insert a new section 3. to read as follows:

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

4:11-20. A license shall not be issued unless and until the applicant has filed a good and sufficient surety bond executed in favor of the secretary in his official capacity, for the benefit of all growers with whom the applicant shall transact business, by a surety company duly authorized to transact business in this State in the sum of at least \$3,000.00, [except that any bond for a person applying for a license to engage in or carry on the business of agent, broker, commission merchant, or dealer for the purchase of eggs only shall be in the sum of at least \$500.00,] conditioned for the payment of all moneys due and owing by the licensee to such grower or growers during the period that the license is in force. The bond shall be executed upon a form prescribed by the secretary and shall be subject to his approval as to form and sufficiency. The

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

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

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

Amend page 3, section 3, line 1, delete “3.”, insert “4.”.

Amend page 3, section 4, line 1, delete “4.”, insert “5.”.

Amend page 3, section 5, line 1, delete “5.”, insert “6.”.

Amend page 4, section 6, line 1, delete “6.”, insert “7.”.

Amend page 4, section 7, line 1, delete “7.”, insert “8.”.

Amend page 4, section 7, line 1, delete “on the sixty-first day following the date of enactment”, insert “immediately but shall remain inoperative for sixty days thereafter”.

SENATE, No. 129

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8 shall expire on April 30 next following its date of issuance.

1 4. Section 4:11-22 of the Revised Statutes is amended to read as follows:

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23 records required by the secretary or by law; or where there has been a re-
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25 transactions in carrying on the business for which such license is granted.

1 6. Section 4:11-32 of the Revised Statutes is amended to read as follows:

2 4:11-32. The licensee and each of his agents shall at all times when
3 receiving, buying, soliciting or negotiating the sale of [perishable] agricul-
4 tural commodities carry an agent's license which shall be exhibited to growers
5 or to the officers of any agricultural co-operative association which deals only
6 with its members and organized pursuant to the provisions of chapter 13 of
7 this Title (§ 4:13-1 et seq.) when negotiating business with them, or to the
8 secretary or assistant whom he may designate, upon request.

1 7. This act shall take effect immediately.

SENATE AMENDMENT TO

SENATE, No. 129

STATE OF NEW JERSEY

ADOPTED FEBRUARY 13, 1962

Amend page 4, section 7, line 1, delete "immediately", and insert in lieu thereof "on the sixty-first day following the date of enactment".