

House Bill 49

By: Representatives Pirkle of the 155th, McCall of the 33rd, Jasperse of the 11th, and LaRiccias of the 169th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 4 of the Official Code of Georgia Annotated, relating to
2 livestock dealers and auctions, so as to update license and surety requirements of livestock
3 dealers and livestock market operators; to provide for publication of duly licensed dealers
4 and operators; to eliminate requirement for submission of certain reports; to correct
5 cross-references and provide for uniformity; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 6 of Title 4 of the Official Code of Georgia Annotated, relating to livestock dealers
10 and auctions, is amended by revising Code Section 4-6-1, relating to definitions relative to
11 livestock dealers, as follows:

12 "4-6-1.

13 As used in this chapter, the term:

14 ~~(1) 'Bond' means a written instrument issued or executed by a bonding, surety, or~~
15 ~~insurance company licensed to do business in this state, guaranteeing that the person~~
16 ~~bonded shall faithfully fulfill the terms of the contract of purchases and guarantee the~~
17 ~~payment of the purchase price of all livestock purchased by him, made payable to the~~
18 ~~Commissioner for the benefit of persons sustaining loss resulting from the nonpayment~~
19 ~~of the purchase price or the failure to fulfill the terms of the contract of purchase.~~

20 ~~(2)(1) 'Cash' includes only currency, cashier's checks, and money orders.~~

21 ~~(3)(2) 'Dealer' is synonymous with the term 'broker' and means any person, firm, or~~
22 ~~corporation, including a packer, engaged in the business of buying livestock of any kind~~
23 ~~for resale or in selling livestock of any kind bought for the purpose of resale or in buying~~
24 ~~livestock of any kind for slaughter. Every agent acting for or on behalf of any dealer,~~
25 ~~broker, or livestock market operator is a dealer or broker. means any person or agent of~~
26 such person who engages in or facilitates, including by electronic means, the business of

buying, selling, exchanging, or otherwise transferring ownership of livestock within this state for his or her own account or for that of another; provided, however, that the term 'dealer' shall not include:

(A) Farmers acquiring livestock solely for the purpose of grazing and feeding as a part of their farm operations ~~are not encompassed by the definition of 'dealer' or 'broker';~~
and

(B) Packers whose total annual purchases of livestock are less than \$50,000.00 who buy only from licensed dealers and licensed sales establishments ~~are not included in the definition of 'dealer' or 'broker';~~

(C) Persons selling only livestock of their own production or buying only for their own production; or

(D) Persons auctioning livestock on behalf of a third party.

~~(4)~~(3) 'Livestock' means cattle, swine, equines, sheep, and goats of all kinds and species.

~~(5)~~(4) 'Livestock market operator' means any person, ~~firm, or corporation~~ engaged in the business of operating a sales establishment, public auctions or sales of livestock, or barns and yards for the containment of livestock held for the purpose of auction or sale.

~~(6)~~(5) 'Person' means any person, firm, corporation, association, cooperative, or combination thereof.

~~(7)~~(6) 'Sales establishment' means any yard, barn, or other premises where livestock is sold at auction.

(7) 'Surety' means a letter of credit, certificate of deposit, or other written instrument issued or executed by a lending institution or bonding, surety, or insurance company licensed to do business in this state, guaranteeing the faithful performance of the terms of the contract of purchase, including the payment of the purchase price of all livestock purchased by the holder of such instrument, made payable to the Commissioner for the benefit of persons sustaining loss resulting from the nonpayment of the purchase price or the failure to fulfill the terms of the contract of purchase."

SECTION 2.

Said chapter is further amended by revising Code Section 4-6-2, relating to the sale, auction, transfer, or movement of infected livestock, as follows:

"4-6-2.

No dealer, ~~broker~~, or livestock market operator shall sell, auction, transfer, or move any livestock which are infected with any disease or which have been placed under quarantine by the authority of the Commissioner. Until all such livestock have been inspected by a veterinarian approved by the Commissioner, no dealer, ~~broker~~, or livestock market operator shall sell, auction, transfer, or move any livestock which have been infected, which are

63 suspected of being infected, or which are likely to have been exposed to infection. No
64 dealer, ~~broker~~, or livestock market operator shall sell, auction, transfer, or move any
65 livestock from any barn, yard, or premises unless all sanitary practices and precautions
66 prescribed by the rules and regulations of the Commissioner have been observed in the
67 premises, barn, or yard."

68 SECTION 3.

69 Said chapter is further amended by revising Code Section 4-6-3, relating to livestock dealer
70 licenses, as follows:

71 "4-6-3.

72 (a) No livestock market operator shall engage in or carry on such business without first
73 applying for and obtaining a license from the Commissioner. The triennial fee for a
74 livestock market operator license shall be proportionate to the surety acquired by such
75 operator, but shall not exceed \$200.00.

76 (b) ~~No livestock dealer or broker~~ dealer who buys or sells through a livestock market
77 operator or directly from producers shall engage in or carry on such business without first
78 applying for and obtaining a license from the Commissioner. ~~There shall be no fee for such~~
79 ~~license.~~ The triennial fee for a dealer license shall be no more than \$25.00.

80 (c) No ~~such~~ license shall be issued to any person pursuant to this Code section unless the
81 applicant therefor furnishes to the Commissioner the ~~required bond~~ surety required under
82 this article and such surety is approved by the Commissioner. ~~The bonds shall be executed~~
83 ~~by a surety corporation authorized to transact business in this state and approved by the~~
84 ~~Commissioner.~~ Any and all ~~bond~~ surety applications shall be accompanied by a certificate
85 of 'good standing' issued by the Commissioner of Insurance. If any company issuing a
86 ~~bond~~ surety shall ~~be removed from doing~~ become unauthorized to do business in this state,
87 it shall be the duty of the Commissioner of Insurance to notify the Commissioner of
88 Agriculture within 30 days. ~~Such bonds shall be upon forms prescribed by the~~
89 ~~Commissioner and sureties~~ shall be conditioned to secure the faithful performance of ~~such~~
90 a person's obligations as a livestock market operator, ~~livestock dealer, or livestock broker~~
91 or ~~dealer~~ under this article and the rules and regulations prescribed ~~under this article~~
92 pursuant thereto. ~~Whenever the Commissioner shall determine that a previously approved~~
93 ~~bond has for any cause become insufficient, the Commissioner may require an additional~~
94 ~~bond or bonds to be given, conforming with the requirements of this Code section. Unless~~
95 ~~the additional bond or bonds are given within the time fixed by written demand therefor,~~
96 ~~or if the bond~~ If the surety of a dealer, ~~broker~~, or livestock market operator is canceled,
97 then the license of such person shall immediately be revoked by operation of law without
98 notice or hearing."

SECTION 4.

Said chapter is further amended by revising Code Section 4-6-4, relating to cancellation, revocation, or suspension of licenses, as follows:

"4-6-4.

Every licensed dealer, ~~broker~~, and livestock market operator who shall violate this chapter or rules and regulations established by the Commissioner pursuant to this chapter shall have his or her license revoked, canceled, or suspended, upon a notice and hearing."

SECTION 5.

Said chapter is further amended by revising Code Section 4-6-5, relating to maintenance of records, as follows:

"4-6-5.

No dealer, ~~broker~~, or livestock market operator shall buy, store, or otherwise receive any livestock without first recording the name and address of the person or persons bringing in the livestock and recording the license tag number of the vehicle used ~~by the person or persons~~ to transport the livestock."

SECTION 6.

Said chapter is further amended by revising Code Section 4-6-10, relating to penalties for violations, as follows:

"4-6-10.

(a) Any dealer, ~~broker~~, or livestock market operator who violates any of the provisions of this chapter, any quarantine provision, or any rule or regulation established by the Commissioner under the authority of this or any other law for the protection of the general public in the prevention of livestock diseases shall be guilty of a misdemeanor.

(b) Any dealer, ~~broker~~, or livestock market operator who violates Code Section 4-6-5, relating to maintenance of records, for a third or subsequent time shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine not to exceed \$10,000.00 or by imprisonment for not less than one nor more than three years, or both, and any person so convicted shall have any license issued under this article permanently revoked and shall be ineligible to apply for a subsequent license under this article.

(c) Any dealer, ~~broker~~, or livestock market operator who violates Code Section 4-6-2, relating to the sale, auction, or transfer of ~~known~~ infected livestock, or Code Section 4-6-6, relating to quarantines, for the third or subsequent time shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine not to exceed \$10,000.00 or by imprisonment for not less than one nor more than three years, or both, and any person so

133 convicted shall have any license issued under this article permanently revoked and shall
134 be ineligible to apply for a subsequent license under this article."

135 **SECTION 7.**

136 Said chapter is further amended by adding a new Code section to read as follows:

137 "4-6-12.

138 The Commissioner shall publish in print or electronically the names and locations of duly
139 licensed dealers and livestock market operators."

140 **SECTION 8.**

141 Said chapter is further amended by revising Code Section 4-6-42, relating to surety bonds
142 generally, as follows:

143 "4-6-42.

144 ~~(a) No person shall operate a sales establishment for the sale of livestock at auction unless~~
145 ~~he or she has then in force a bond surety in an amount calculated as follows: established~~
146 ~~in a memorandum of agreement with the department sufficient to secure the performance~~
147 ~~of the obligations of the holder of such surety.~~

148 ~~(1) If the annual sales of the establishment are \$2,600,000.00 or less, the amount of the~~
149 ~~bond shall be one fifty-second of the amount of annual sales but not less than \$10,000.00;~~
150 ~~or~~

151 ~~(2) If the annual sales of the establishment are more than \$2,600,000.00, the amount of~~
152 ~~the bond shall be \$50,000.00 plus one fifty-second of the amount of annual sales in~~
153 ~~excess of \$2,600,000.00 times a factor of 0.20.~~

154 ~~(b) An amount calculated under subsection (a) of this Code section, if not a multiple of~~
155 ~~\$5,000.00, shall be rounded to nearest higher multiple of \$5,000.00."~~

156 **SECTION 9.**

157 Said chapter is further amended by revising Code Section 4-6-43, relating to surety bonds
158 relative to dealers and brokers generally, as follows:

159 "4-6-43.

160 ~~(a) No dealer or broker shall purchase livestock at any sales establishment or directly from~~
161 ~~producers unless he or she has then in force a bond surety in an amount calculated as~~
162 ~~follows: established in a memorandum of agreement with the department sufficient to~~
163 ~~secure the performance of the obligations of the holder of such surety.~~

164 ~~(1) Determine a number which is the number of days during the preceding year on which~~
165 ~~the dealer or broker did business;~~

~~(2) Divide the total dollar value of livestock purchased by the dealer or broker during the preceding year by the lesser of:~~

~~(A) One-half of the number determined under paragraph (1) of this subsection, or~~

~~(B) One hundred thirty; and~~

~~(3) Adjust the amount obtained under paragraph (2) of this subsection as follows:~~

~~(A) If the amount obtained under paragraph (2) of this subsection is \$10,000.00 or less then the amount of the bond shall be \$10,000.00;~~

~~(B) If the amount obtained under paragraph (2) of this subsection is more than \$10,000.00 but not more than \$75,000.00 then that amount shall be the amount of the bond; or~~

~~(C) If the amount obtained under paragraph (2) of this subsection is more than \$75,000.00 then the amount of the bond shall be the sum of \$75,000.00 plus 10 percent of the amount by which the amount obtained under paragraph (2) of this subsection exceeds \$75,000.00.~~

~~(b) An amount calculated under subsection (a) of this Code section, if not a multiple of \$5,000.00, shall be rounded up to the nearest multiple of \$5,000.00.~~

~~(c) This Code section shall not be applicable to nor shall a bond surety be required of a dealer who purchases livestock at sales establishments for cash only. No livestock market operator shall permit a dealer ~~or broker~~ who is not properly licensed and ~~bonded~~ holding surety to purchase livestock other than for cash."~~

SECTION 10.

Said chapter is further amended by repealing in its entirety Code Section 4-6-44, relating to calculation of bonds, and designating said Code section as reserved.

SECTION 11.

Said chapter is further amended by repealing in its entirety Code Section 4-6-49, relating to annual sale and purchase reports and proof of bonding requirements, and designating said Code section as reserved.

SECTION 12.

Said chapter is further amended by revising Code Section 4-6-49.1, relating to denial of licenses and required statements and records, as follows:

"4-6-49.1.

(a) No license shall be issued to or allowed to be maintained by any sales establishment or dealer if:

(1) Any beneficial interest in the business of the sales establishment or dealer is directly or indirectly owned by a defaulter; or

(2) Any defaulter is employed in a management position by the sales establishment or dealer.

(b) As used in this Code section, the term 'defaulter' means any person who has, within the past five years, been employed in a managerial position by or owned any beneficial interest in the business of a sales establishment or dealer ~~which~~ and such business has ceased operations without satisfying all liabilities of the business either from assets of the business or from any ~~bond or bonds~~ surety.

(c) The Commissioner shall have full authority to require disclosure from licensees and applicants of information sufficient to determine whether the licensee or applicant is qualified to be licensed under this Code section. The Commissioner shall have full authority to examine the records and accounts of all licensees in order to determine whether any proceeds of the business are being paid to any defaulter.

(d) This Code section shall not prohibit the Commissioner from allowing a defaulter to operate as a dealer who purchases livestock for cash only.

(e) All applicants for licensure shall submit to the Commissioner a current financial statement, and all licensees shall submit a current financial statement annually."

SECTION 13.

Said chapter is further amended by revising Code Section 4-6-52, relating to special sales, as follows:

"4-6-52.

(a) As used in this Code section, 'special sale' means any livestock sale, except a regular sale at an establishment and any sale by a farmer of livestock owned by the farmer, with payment made directly to the farmer.

(b) The Commissioner is authorized to prescribe rules and regulations for the operation of special sales. No person shall hold a special sale without obtaining a permit therefor from the Commissioner or his or her duly authorized representative, which shall be granted without charge upon submission of proof satisfactory to the Commissioner that the person applying for the permit ~~is bonded~~ has procured a surety in an amount equal to one-fourth of the anticipated proceeds of the sale; provided, however, that such ~~bond~~ surety shall be not less than \$10,000.00 and not more than \$150,000.00 ~~in amount~~.

(c) Associations holding sales of animals consigned by members of the association only shall not be required to procure a ~~bond~~ surety if the directors of the association accept full responsibility for financial obligations of sale and release the Commissioner, in writing, from any responsibility.

235 ~~(c.1)(d)~~ Georgia 4-H clubs and Georgia Future Farmers of America chapters shall not be
236 required to procure a ~~bond~~ surety.
237 ~~(d) Any person who violates this Code section shall be guilty of a misdemeanor."~~

238 **SECTION 14.**

239 All laws and parts of laws in conflict with this Act are repealed.