

1 HB84
2 180748-1
3 By Representative Sessions
4 RFD: Agriculture and Forestry
5 First Read: 07-FEB-17
6 PFD: 02/06/2017

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8 SYNOPSIS: Under existing law, livestock markets are
9 required to have a permit from the Commissioner of
10 the Department of Agriculture and Industries.

11 This bill would make technical
12 nonsubstantive changes relating to livestock
13 markets regulated by the Department of Agriculture
14 and Industries.

15 This bill would also repeal provisions
16 relating to the Alabama Public Livestock Market
17 Board and requirements that a livestock market that
18 sells livestock be chartered by the board, and
19 merge the permitting requirements into other
20 existing permitting requirements for livestock
21 markets.

22 This bill would also repeal duplicative
23 language relating to the weighing of livestock.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

1
2 Relating to livestock markets; to amend Sections
3 2-15-41, 2-15-61, 2-15-91, 2-15-92, 2-15-131, and 2-15-133,
4 Code of Alabama 1975; to update and streamline language
5 relating to livestock markets, livestock dealers, and
6 weighmasters regulated by the Department of Agriculture and
7 Industries; to merge permitting requirements for livestock
8 markets, thereby eliminating duplicative requirements; to
9 repeal Sections 2-15-93 and 2-15-95, Code of Alabama 1975,
10 relating to the weighing of livestock; and to repeal Sections
11 2-15-115 to 2-15-127, inclusive, Code of Alabama 1975,
12 relating to the Alabama Public Livestock Market Board and
13 requirements that a livestock market be chartered by the
14 board.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 2-15-41, 2-15-61, 2-15-91,
17 2-15-92, 2-15-131, and 2-15-133, Code of Alabama 1975, are
18 amended to read as follows:

19 "§2-15-41.

20 "No dealer ~~as defined in Section 2-15-40~~, except as
21 provided in this section, may engage in any business described
22 in Section 2-15-40 without a permit. Every dealer shall
23 annually, on or before October 1, file an application with the
24 commissioner for a permit to engage in the business. The
25 application shall be made upon forms furnished by the
26 Department of Agriculture and Industries and shall contain
27 such information as may be required. The fee for every ~~such~~

1 permit, except as provided in this section, shall be
2 established by the Board of Agriculture and Industries not to
3 exceed thirty-seven dollars fifty cents (\$37.50), which shall
4 be paid to the commissioner and deposited in the State
5 Treasury to the credit of the Agricultural Fund. If such
6 permit fee is not paid within 45 days from the date on which
7 the fee is due, a delinquent penalty of 15 percent shall be
8 added.

9 "Every dealer who also engages in the business of
10 transporting or hauling for hire cattle, sheep, goats, or hogs
11 along any public road or highway of Alabama for resale,
12 market, or slaughter shall pay an annual permit fee
13 established by the Board of Agriculture and Industries not to
14 exceed thirty-seven dollars fifty cents (\$37.50) for each
15 vehicle used in hauling or transporting such livestock, and
16 the commissioner, under rules ~~and regulations~~ promulgated by
17 the Board of Agriculture and Industries, shall issue a
18 suitable permit plate or annual decal for proper
19 identification of each vehicle used by dealers in hauling or
20 transporting livestock for resale, market, or slaughter.

21 "Any dealer, ~~as defined in Section 2-15-40,~~ who
22 procures a license as a dealer pursuant to the requirements of
23 Article 6 of this chapter and who otherwise complies with the
24 provisions of Article 6 of this chapter shall not be required
25 to obtain the annual permit nor pay the fee therefor as
26 required under this section, but every such dealer shall
27 comply with the other provisions and requirements of this

1 article; provided, that any dealer who is required to procure
2 a license by Article 6 of this chapter who also engages in the
3 business of transporting or hauling for hire cattle, sheep,
4 goats, or hogs along any public road or highway in Alabama
5 shall also be required to procure a permit and pay the fee
6 therefor as required under this section.

7 "§2-15-61.

8 "(a) No person shall operate a livestock market in
9 the State of Alabama without first having obtained from the
10 commissioner, as required by this division, an annual permit
11 therefor.

12 "(b) The application for such a permit shall be made
13 upon forms furnished by the department, which shall be
14 verified by affidavit of the applicant which shall include all
15 of the following information:

16 "(1) The name and address of the applicant or
17 applicants and, if a corporation, its officers, and if a
18 partnership, the names and addresses of its partners~~†~~.

19 "(2) The place where applicant proposes to operate a
20 livestock market~~†~~.

21 "(3) A description of the property and facilities
22 proposed to be used as a livestock market~~†~~.

23 "(4) The kind of livestock the applicant proposes to
24 handle at the livestock market and the day or days of the week
25 the applicant proposes to conduct sales~~†~~.

26 "(5) A financial statement of the applicant prepared
27 by a financial institution, certified public accountant, or

1 tax professional, showing the gross amount of business done by
2 applicant during the preceding year, October 1 through
3 September 30, and such statement shall show applicant's assets
4 and liabilities;~~and.~~

5 "(6) An annual animal health inspection of the site
6 performed by the State Veterinarian or his or her duly
7 authorized agent.

8 "(7) Such other pertinent information as the
9 commissioner may require relating to the bond and insurance,
10 as required by this division, together with such information
11 as may be required relating to the physical facilities of the
12 livestock market and its record-keeping system for the
13 identity of livestock received and handled.

14 "(c) A permit shall be issued when the commissioner
15 finds that:

16 "(1) The application is in due form;

17 "(2) The applicant has filed with the commissioner a
18 bond as provided in this division;

19 "(3) The permit fee has been paid as provided in
20 this division; and

21 "(4) The requirements of this division and all rules
22 and regulations promulgated under the provisions of this
23 division have been complied with.

24 "(d) A permittee shall notify the commissioner in
25 writing not more than 30 days after any change to the
26 information required under subsection (b).

1 "(e) The permit issued under this division shall be
2 revoked or shall not be issued or renewed when the
3 commissioner finds that the livestock market is not complying
4 with the provisions of this division or rules ~~and regulations~~
5 duly promulgated under this division or any such livestock
6 market is or has not complied with any requirement of law for
7 the control and eradication of any diseases of livestock or
8 any law requiring the keeping of records relating to the
9 identity of livestock for such purpose or for the tracing of
10 lost, stolen, or estrayed livestock or any rule ~~or regulation~~
11 promulgated under authority of such laws.

12 "~~(e)~~ (f) Any livestock market refused or denied a
13 permit provided for in this division or any livestock market
14 having its permit revoked or cancelled by the commissioner
15 shall be entitled to appeal such action of the commissioner to
16 the board by filing a written notice or demand therefor with
17 the commissioner within 10 days after notice of denial,
18 revocation of, or failure to renew a permit has been received
19 by the livestock market, which appeal must be heard by the
20 board at the next regular meeting or a special meeting called
21 for this purpose; provided, that such appeal must be heard by
22 the board on a date not later than 30 days following the date
23 on which an appeal is filed. The filing of an appeal shall not
24 suspend the action of the commissioner in the revocation or
25 cancellation of a permit. The action of the board in refusing
26 to grant or in revoking any permit may be reviewed by the
27 circuit court of the county in which the livestock market is

1 located, upon a complaint being filed in ~~said~~ the circuit
2 court, accompanied by a bond to be approved by the register or
3 clerk within 15 days after notice to the applicant or to the
4 holder of the permit of the board's decision. Such complaint
5 shall be styled in the name of applicant or holder of the
6 permit as plaintiff against the commissioner as defendant and
7 shall set forth the action complained of and pray its
8 reversal. It shall be the duty of the commissioner to serve an
9 answer within 30 days after ~~said~~ the complaint is served upon
10 ~~him~~ the commissioner. The case shall be heard de novo by the
11 court and it shall be determined from the evidence whether the
12 refusal or revocation of the permit is or is not justified
13 under ~~the provisions of~~ this division, and a decision shall be
14 accordingly entered, subject to the right of appeal, which
15 shall lie from a final order or judgment of the circuit court
16 in the same manner as in other civil cases. All appeal rights
17 provided in this subsection shall not suspend the action of
18 the commissioner in the revocation or refusal of a permit.

19 "§2-15-91.

20 "No person shall operate scales upon which livestock
21 are weighed at livestock markets where the livestock are sold
22 upon the basis of weight unless such person obtains a public
23 weighmaster permit as required under the provisions of this
24 division, nor shall any person who operates a livestock market
25 sell livestock for himself or others at a livestock market
26 upon the basis of weight unless such livestock is weighed by a

1 person holding a public weighmaster permit as required under
2 the provisions of this division.

3 "§2-15-92.

4 "A public weighmaster permit to operate scales at
5 livestock markets as required under Section 2-15-91 shall be
6 obtained from the Commissioner of Agriculture and Industries
7 and such permit shall expire on September 30 following the
8 date of issuance in accordance with Sections 8-16-50 to
9 8-16-59, inclusive, and Section 8-16-106.

10 "~~A permit fee not to exceed \$20.00 established by~~
11 ~~the Board of Agriculture and Industries shall accompany each~~
12 ~~application for a permit, which fee shall be deposited into~~
13 ~~the Agricultural Fund of the State Treasury.~~

14 "~~Annual permits~~ Permits required under this division
15 shall ~~cover the 12-month period beginning October 1 and ending~~
16 ~~September 30~~ be valid for one year as provided in Section
17 8-16-51.

18 "§2-15-131.

19 "When used in this article, the following terms
20 shall have the following meanings, respectively, unless the
21 context clearly indicates otherwise:

22 "(1) COMMISSIONER. The Commissioner of Agriculture
23 and Industries of the State of Alabama.

24 "(2) BOARD. The Board of Agriculture and Industries
25 of the State of Alabama.

26 "~~(5)~~ (3) DEALER. Any person engaged in the business
27 of buying livestock in the State of Alabama for resale,

1 exchange or slaughter and meat packing purposes, either on his
2 or her own account or as agent for others on a commission
3 basis or otherwise.

4 "~~(3)~~(4) DEPARTMENT. The Department of Agriculture
5 and Industries of the State of Alabama.

6 "~~(6)~~(5) LIVESTOCK. Cattle, swine, sheep, goats,
7 equidae, ratites, poultry, and catfish.

8 "(6) LIVESTOCK MARKET. A place, concentration, or
9 collection point or other public or private place where a
10 person assembles livestock for either public or private sale
11 by himself or herself and the service or the cost or expense
12 thereof is compensated by the owner of the livestock on a
13 commission basis or otherwise. The term does not include any
14 of the following:

15 "a. A place used on a temporary basis solely for the
16 dispersal sale of the livestock of a farmer, dairy farmer,
17 livestock breeder, or feeder who is discontinuing his or her
18 business and where no other livestock is sold or offered for
19 sale.

20 "b. A farm, ranch, or place where livestock is
21 raised or kept for the grazing season or for fattening and
22 subsequently sold and where no other livestock is brought
23 there for sale or offered for sale.

24 "c. The premises of a butcher, packer, or processor
25 that receives livestock exclusively for immediate slaughter.

1 "d. A place where livestock is raised solely for
2 breeding purposes and the owner exclusively sells animals he
3 or she produced.

4 "e. A place where a producer or an association of
5 producers of livestock of any class assemble and sell or offer
6 for sale any livestock, provided the producer or association
7 manages the sale and assumes all responsibility for the sale
8 and the title to the livestock sold.

9 "f. A place used on a temporary basis solely for
10 livestock sales of 4-H clubs, Future Farmers of America, or
11 other similar youth organizations.

12 "(7) LIVESTOCK MARKET OWNER. A person engaged in the
13 business of conducting or operating a public livestock market
14 whether personally or through agents or employees.

15 "(4)(8) PERSON. Any individual, partnership,
16 corporation, association or other business unit.

17 "§2-15-133.

18 "(a) No license as required under Section 2-15-132
19 shall be issued or renewed until the applicant therefor shall
20 make, execute, and thereafter maintain on file with the
21 commissioner a bond or a bond equivalent as provided in
22 subsection (f) ~~of this section~~ in favor of the State of
23 Alabama or a trustee to be approved by the commissioner to
24 secure the performance of obligations incurred in the State of
25 Alabama and the payment thereof to persons from whom such
26 dealer purchases livestock. Except as otherwise provided in
27 this subsection, the amount of each bond shall be not less

1 than the next multiple of ~~\$2,000.00~~ two thousand dollars
2 (\$2,000) above the average amount of purchases of livestock
3 purchased either as a dealer or on an agency basis in Alabama
4 during a period equivalent to two business days based on the
5 total number of business days and the total amount of such
6 transactions during the ~~proceeding~~ preceding 12 months or in
7 such substantial part thereof in which the applicant did
8 business. For the purpose of this computation, 260 shall be
9 deemed the number of business days in any year. Bonds above
10 ~~\$26,000.00~~ twenty-six thousand dollars (\$26,000) shall not be
11 less than the next multiple of ~~\$5,000.00~~ five thousand dollars
12 (\$5,000) above the average amount of livestock purchased
13 either as a dealer or on an agency basis in Alabama, computed
14 as set out in this subsection. When the amount of a bond,
15 calculated as required in this subsection, exceeds ~~\$50,000.00~~
16 fifty thousand dollars (\$50,000), the amount of the bond shall
17 not exceed ~~\$50,000.00~~ fifty thousand dollars (\$50,000) plus 10
18 percent of the excess, unless the commissioner has reason to
19 believe that a bond in ~~such~~ that amount is inadequate because
20 of the volume of business conducted on a seasonal or otherwise
21 irregular basis, in which event the commissioner shall
22 determine and specify the amount of the bond to be required.

23 "(b) In no case shall a bond covering the buying
24 operations of a dealer be less than ~~\$10,000.00~~ ten thousand
25 dollars (\$10,000).

26 "(c) If the applicant is a successor in business to
27 a dealer subject to the requirements of this article, the bond

1 of such applicant shall be in an amount not less than that
2 required of the prior dealer, unless the commissioner finds
3 that the amount of such a bond will be excessive and
4 unnecessary. If the applicant has not been previously engaged
5 in the business of a dealer subject to the requirements of
6 this article, the bond of such applicant shall be in an amount
7 equivalent to the estimated value of livestock purchases which
8 it is anticipated such applicant will make during any two
9 business days during the succeeding 12 months; provided,
10 however, that the amount of such bond shall be subject to
11 adjustment from time to time in accordance with the provisions
12 of subsection (e) ~~of this section~~.

13 "(d) Bonds required by subsection (a) ~~of this~~
14 ~~section~~ shall be conditioned that the dealer or principal
15 shall pay, when due to the person or persons entitled thereto,
16 the purchase price of all livestock purchased in the State of
17 Alabama by ~~said~~ the dealer-principal for his or her own
18 account or for the accounts of others and that the ~~said~~
19 dealer-principal shall safely keep and properly disburse all
20 funds, if any, which come into his or her hands for the
21 purpose of paying for livestock purchased for the account of
22 others. Bonds required by subsection (a) ~~of this section~~ shall
23 be written by a surety company qualified to do business in
24 Alabama. Any person having a cause of action against a dealer
25 for breach of the condition of the bond may bring a civil
26 action against the principal and surety of such bond in any
27 court of competent jurisdiction for recovery of the loss

1 resulting from such breach of the condition of the bond;
2 provided, however, that the aggregate liability of the surety
3 for all such losses shall not exceed the amount of the bond.
4 The bond shall contain a provision requiring not less than 15
5 days' written notice to the commissioner by the party
6 terminating such bond in order to effect its termination.

7 "(e) Whenever the commissioner finds that any bond
8 required under this section is inadequate, such bond, upon
9 notice from the commissioner, shall be increased to meet the
10 requirements of this section or, in like manner, may be
11 reduced if found to be in excess of the requirements of this
12 section; provided, however, that the amount of such bond shall
13 not be increased or reduced by the commissioner, nor shall the
14 amount of any bond be increased under authority of subsection
15 (a) ~~of this section~~ unless and until the ~~State Board of~~
16 ~~Agriculture and Industries~~ board ~~adopts and promulgates~~ rules
17 ~~and regulations~~ prescribing the conditions under which bond
18 increases or reductions will be required by the commissioner.
19 ~~Such rules and regulations~~ The rules shall prescribe a uniform
20 method and procedure to be followed by the commissioner in
21 determining the amount of any bond increases or reductions
22 that may be ordered by the commissioner because of being
23 inadequate or excessive. All such bond increases and
24 reductions as ordered by the commissioner as authorized under
25 this subsection shall be reviewed by the board at its next
26 quarterly or special call meeting for the purpose of
27 determining whether the action of the commissioner in

1 requiring an increase or reduction in the amount thereof is in
2 compliance with the rules and regulations as prescribed by the
3 said board for this purpose.

4 "(f) A bond equivalent may be filed or maintained in
5 lieu of a bond. A bond equivalent shall be in the form of a
6 trust fund agreement based upon cash or fully negotiable bonds
7 of the United States government or of the State of Alabama.
8 All provisions of this section relating to making, executing,
9 filing, and maintaining bonds on file with the commissioner
10 shall be applicable to such trust fund agreements.

11 "(g) The above requirements for a bond or bond
12 equivalent may be waived provided the dealer, "at the time of
13 purchase," pays for all livestock purchased with United States
14 currency (cash), money orders, or cashier's or certified
15 checks. The dealer may also be required to submit verified
16 statements to this effect.

17 "(h) Every person engaged in the business of a
18 dealer, ~~as defined in Section 2-15-131,~~ shall furnish annually
19 and at such other times as the commissioner may designate or
20 request verified financial statements and reports showing the
21 volume and value of livestock purchased in Alabama and the
22 names and addresses of all employees authorized to purchase
23 livestock for such person and shall keep such books and
24 records as the commissioner may require as being reasonably
25 necessary to carry out the provisions and requirements of this
26 section, and the commissioner or his or her duly authorized
27 agent or agents shall have access to such books and records

1 during the regular business hours of any business day for the
2 purpose of examination, inspection, audit, or investigation of
3 such dealer's operations. Any person who submits false
4 information in making any report required under this
5 subsection or who refuses the commissioner or his or her
6 authorized agent access to such books and records as are
7 required to be kept under this subsection shall be subject to
8 the provisions of Section 2-15-136.

9 "(i) Every person engaged in the business of a
10 dealer, ~~as defined in Section 2-15-131,~~ shall make full
11 payment of the amount of each purchase of livestock to the
12 person from whom such purchase was made not later than the
13 close of the next business day following the date of ~~such the~~
14 purchase; however, dealers engaged in the business of buying
15 catfish shall make such payment not later than the close of 10
16 business days following the date of ~~such the~~ purchase of
17 catfish.

18 "(j) Every person engaged in the business of a
19 dealer ~~shall as defined in Section 2-15-131,~~ with regard to
20 any purchase of livestock made by such dealer at a livestock
21 market regulated by Sections 2-15-60 through 2-15-71, shall be
22 liable for the payment of the amount of ~~each such the~~
23 livestock purchase made by ~~such the~~ dealer whether the
24 purchase was made by the dealer on his or her own account or
25 as an agent for another, and with respect to such livestock
26 purchases made as an agent for another, such liability shall
27 exist without regard to the fact that the other party for whom

1 the purchase was made shall also be liable for the payment of
2 the amount of such purchase."

3 Section 2. Sections 2-15-93, 2-15-95, and Sections
4 2-15-115 to 2-15-127, inclusive, Code of Alabama 1975, are
5 repealed.

6 Section 3. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.