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Requirements for Grain Dealers:

New Mexico



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N.M. Stat. Ann. Ch. 76, Art. 15

Current through Chapters 6, 7, 11, 16, 28 and 64 of the 2024 Second Regular Session of the 56th Legislature (2023).

§ 76-15-10. Exclusions and exemptions

The Produce Marketing Act shall not apply to any New Mexico grower growing and selling produce of his own production.

§ 76-15-11. Short title

This act may be cited as the “Produce Marketing Act”.

§ 76-15-12. Purpose of act

The purpose of the Produce Marketing Act is to promote the development of the produce industry in New Mexico, to prevent fraud and deception in the receiving, packing, marketing, shipping, consignment, sale and accounting of sales of produce, to establish quality standards for produce and to provide for proper licensing and bonding of brokers, packers and wholesalers covered by the Produce Marketing Act.

§ 76-15-13. Definitions

As used in the Produce Marketing Act:

- A. “produce” means the food product from any vine, tree or plant which produces fruits, vegetables or nuts for human consumption;
- B. “board” means the board of regents of the New Mexico state university;



C. “broker” means a commission merchant or any other person engaged in the business of receiving any produce for sale, on commission or for or on behalf of another;

D. “packer” means any person engaged in the business of grading, packing, cooling or storing of any produce other than his own production;

E. “grower” means any person engaged in the growing of any produce crop;

F. “person” means individuals, partnerships, corporations and grower cooperative associations or any other legal entities;

G. “dealer” means any person engaged in the business of buying any produce from the grower for processing or resale; and

H. “cash buyer” means any person who acquires possession or control of produce and pays in full at the time of the acquisition in lawful money of the United States or by certified or cashier’s check or by post office money order.

§ 76-15-14. Application; license; bonds

Except for a cash buyer, no person shall act as a dealer, broker or packer without first obtaining a license from the board. The board may grant licenses in proper cases upon written application accompanied by the appropriate fee and surety bond. The application shall be on a form prescribed and provided by the board, and shall require information concerning the identity of the owners and officers of the firm to be licensed, and any other information the board deems necessary. The surety bond shall be approved as to form by the attorney general and shall be conditioned on the conduct of the business of the person bonded in compliance with the Produce Marketing Act, and honestly and without fraud. The bond shall run to the state of New Mexico for the payment of all inspection fees, and for the benefit of any person or persons injured by the dishonesty, fraud or noncompliance with the Produce Marketing Act or any regulation of the board.

§ 76-15-15. License fees; bonds

The fees and bonds required under the Produce Marketing Act shall be established by the department of agriculture in an amount not to exceed:

	License Fee	Bond
Broker	\$100	\$100,000
Packer	\$50.00	\$50,000
Dealer	\$50.00	\$50,000

§ 76-15-16. Records and accounts

All persons licensed under the Produce Marketing Act shall keep complete and accurate records showing all produce handled by them, the



ownership of the produce, date and place of any shipments. Packers will give growers the weight or count by box or bag of any produce packed for the grower. Brokers are required to give growers a record of the shipments upon completion of shipping.

§ 76-15-17. Board regulations

The board is authorized to:

- A. establish, after proper hearing, reasonable rules and regulations on containers, packaging and labeling;
- B. establish regulations on acquiring information about brokers, [and] packers, relative to the officers, or officials in the company; and
- C. establish any other rules or regulations the board may deem necessary.

§ 76-15-18. Voluntary certification; fees

Any grower, or broker, desiring federal-state inspection certificates on loads or lots of fruits or vegetables may request inspection and certification and receive such inspection and certification upon payment of fees set by board regulation to cover the cost of inspection fees and issuance of the certificates.

§ 76-15-19. Penalties

Any person violating any provision of the Produce Marketing Act or any rule or regulation promulgated by the board is guilty of a misdemeanor and upon conviction shall be fined not more than three hundred dollars (\$300) or imprisoned for not more than ninety days, or both. Conviction of a misdemeanor under the Produce Marketing Act is grounds for revocation of license.

§ 76-15-20. Injunction

In addition to any other remedy under law, the board may apply to the district court for an injunction, and in proper case the district court may issue a temporary or permanent injunction or both, restraining any person from violating or continuing to violate any of the provisions of the Produce Marketing Act or any regulation promulgated by the board. In issuing an injunction on the application of the board, the court shall require no bond.

§ 76-15-21. Individual action on bond

In the absence of written agreement between the parties, setting a shorter time, no action by an owner or grower for payment from any broker or other person for any load or lot of produce shall be commenced prior to sixty days from the time of shipment. After sixty days from the date of shipment such action can be maintained against the broker and his bond unless the broker has ample justification to show why the payments have not been made.

