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Requirements for Grain Dealers:

Nevada



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Requirements for Grain Dealers: Nevada

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Nev. Rev. Stat. tit. 50, Ch. 576

Current through legislation of the 82nd Regular Session (2023) Chapters 1 to 535 (End) and the 35th Special Session (2023) Chapter 1 (End).

576.010. Definitions

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 576.0115 to 576.018, inclusive, have the meanings ascribed to them in those sections.

576.0115. “Agent” defined

“Agent” means any person who, on behalf of any commission merchant, dealer or broker, receives, contracts for or solicits the sale, exchange or transfer of farm products or livestock from a producer thereof, or who negotiates the consignment or purchase of any farm product or livestock on behalf of any commission merchant, dealer or broker.

576.0117. “Agricultural product” defined

“Agricultural product” means a product of the soil, a farm product and any product commonly used to enhance agricultural production, including, without limitation, a product produced by hydroponic or aquatic farming. The term does not include a product inspected by a federal or other state agency.

576.012. “Alternative livestock” defined

“Alternative livestock” has the meaning ascribed to it in NRS 501.003.

576.0125. “Broker” defined

“Broker” means any person other than a dealer, commission merchant or cash buyer, who negotiates the purchase or sale of any farm



product and who does not handle either the farm product involved or the proceeds of a sale.

576.013. “Cash buyer” defined

“Cash buyer” means any person other than a commission merchant, dealer or broker, who purchases or offers to purchase any farm products or livestock for the purpose of processing or resale and who pays for the farm products or livestock in lawful money of the United States or by certified check at the time of purchase or delivery thereof, or at the time the price of the farm products or livestock may be determined, if the price or value thereof is subject to determination by inspection, grade or pack out.

576.0135. “Commission merchant” defined

“Commission merchant” means any person other than a dealer, broker or cash buyer, who receives on consignment or solicits from the producer thereof for the purpose of resale, or who sells or offers for sale on commission any farm product or livestock, or who in any way handles for the account of, or as an agent of, the producer thereof on a commission basis any farm products or livestock.

576.014. “Consignor” defined

“Consignor” means any person who ships or delivers to any commission merchant or dealer any farm products for handling, sale or resale.

576.0145. “Dealer” defined

“Dealer” means any person other than a commission merchant, broker or cash buyer, who solicits, contracts for or obtains from the producer, agent or consignee thereof title, possession or control of any farm product or livestock, or who buys or agrees to buy any farm product or livestock from the producer thereof.

576.015. “Department” defined

“Department” means the State Department of Agriculture.

576.0152. “Director” defined

“Director” means the Director of the Department.

576.0155. “Farm products” defined

“Farm products” includes all agricultural, horticultural, viticultural and vegetable products of the soil, poultry and poultry products, livestock and livestock products and hay. The term does not include timber products or milk and milk products.

576.016. “Fixed and established place of business” defined

“Fixed and established place of business” means any warehouse, building, storeroom or stockyard, either owned or leased, at which the owner conducts a legitimate permanent business in good faith, and at which stocks of farm



products or livestock are kept in quantities usually carried and reasonably adequate to meet the requirements of the business therein conducted.

576.0162. “Free-sale certificate” defined

“Free-sale certificate” means a document which certifies that an agricultural product which is proposed to be exported is the same type of agricultural product freely marketed and sold in this State.

576.0165. “Immediate resale” defined

“Immediate resale” means a sale of farm products or livestock made within 60 days after the purchase thereof.

576.017. “Livestock” defined

“Livestock” includes all kinds and ages, and both sexes, singular and plural, of the bovine and equine species and sheep, goats and hogs.

576.0175. “Produce vendor” defined

“Produce vendor” means any person engaged in the sale of farm products other than any poultry, livestock or livestock product.

576.018. “Producer” defined

“Producer” means any person engaged in the business of growing or producing any farm product.

576.020. Acting as broker, dealer, commission merchant or agent without license prohibited; license not required for cash buyer or agent of cash buyer

1. A person shall not act as a broker, dealer, commission merchant or agent without having obtained a license from the Department as provided in this chapter.
2. A cash buyer or an agent of a cash buyer is not required to obtain a license pursuant to this chapter before acting as a cash buyer or an agent of a cash buyer.

576.030. Application for license: Contents; additional requirements for agents; appointment of Director as attorney upon whom process may be served

1. Every person, before acting as a broker, dealer, commission merchant or agent, shall file an application with the Department for a license to transact such business. Separate applications must be filed for each class of business.
2. The application must be on a form prescribed and furnished by the Department and must set forth:
 - (a) The full name of the person applying for the license. If the applicant is a firm, exchange, association or corporation, the full name of each member of the firm, or the names of the officers of



the exchange, association or corporation must be given in the application.

(b) If the applicant is a natural person, the social security number of the applicant.

(c) The principal business address of the applicant in this State and elsewhere.

(d) The name of the person authorized to accept service of summons and legal notice of all kinds for the applicant.

(e) The names and addresses of all persons by whom the applicant has been employed for a period of 3 years immediately preceding the making of the application.

(f) A complete statement of the applicant's business activity for the 3 years immediately preceding the making of the application which is not covered by paragraph (e).

(g) The county or counties in which the applicant proposes to engage in business.

(h) The class or classes of farm products the applicant proposes to handle.

(i) Such other information as the Department may reasonably require.

3. In addition to the general requirements applicable to all classes of applications as set forth in subsection 2, each application for a license as an agent must be in the same form as an application for a license as a broker, dealer or commission merchant, and must include the name and address of the broker, dealer or commission merchant represented or sought to be represented by the agent, and the written endorsement or nomination of the broker, dealer or commission merchant.

4. The application must be accompanied by an executed instrument whereby the applicant:

(a) Appoints and constitutes the Director and the Director's successor or successors in office the true and lawful attorney of the applicant upon whom all lawful process in any action or legal proceeding against the applicant arising in this State from a transaction under the provisions of this chapter may be served; and

(b) Agrees that any lawful process against the applicant which may be served upon the applicant's attorney as provided in this subsection is of the same force and validity as if served upon the applicant and that the authority thereof continues in force irrevocably as long as any liability of the applicant in the State remains outstanding.

576.032. Additional requirements for issuance and renewal of license: Statement regarding obligation of child support; grounds for denial of license; duty of Department



1. A natural person who applies for the issuance or renewal of a license as a broker, dealer, commission merchant or agent shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. A license as a broker, dealer, commission merchant or agent may not be issued or renewed by the Department if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he or she is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he or she is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

576.035. Previous convictions and violations by applicant may be considered as adverse showing of character, responsibility and good faith; rejection of application for certain period after date of adjudication for bankruptcy or collection by court order

1. A previous conviction of a felony, previous bankruptcy, voluntary or involuntary, or previous violation of this chapter may be considered by the Department as adverse to a showing of character, responsibility or good faith on the part of an applicant for a license as a broker, dealer, commission merchant or agent.

2. Any person adjudged bankrupt, or any person against whose bondsman or bondsmen or deposit in lieu of bond a claim has been collected by a court order, who has not made full settlement with all producer-creditors, may not be licensed by the Department for 3 years after the date of the adjudication or collection.



3. The Department may refuse to accept a new application for a license by an applicant rejected pursuant to this section for a period not exceeding 3 years after the date of rejection of the first application.

576.037. Petition to review criminal history to determine if criminal history disqualifies applicant

1. The Department shall develop and implement a process by which a person with a criminal history may petition the Department to review the criminal history of the person to determine if the person's criminal history will disqualify the person from obtaining a license as a broker, dealer, commission merchant or agent pursuant to NRS 576.030.

2. Not later than 90 days after a petition is submitted to the Department pursuant to subsection 1, the Department shall inform the person of the determination of the Department of whether the person's criminal history will disqualify the person from obtaining a license. The Department is not bound by its determination of disqualification or qualification and may rescind such a determination at any time.

3. The Department may provide instructions to a person who receives a determination of disqualification to remedy the determination of disqualification. A person may resubmit a petition pursuant to subsection 1 not earlier than 6 months after receiving instructions pursuant to this subsection if the person remedies the determination of disqualification.

4. A person with a criminal history may petition the Department at any time, including, without limitation, before obtaining any education or paying any fee required to obtain a license from the Department.

5. A person may submit a new petition to the Department not earlier than 2 years after the final determination of the initial petition submitted to the Department.

6. The Department may impose a fee of up to \$50 upon the person to fund the administrative costs in complying with the provisions of this section. The Department may waive such fees or allow such fees to be covered by funds from a scholarship or grant.

7. The Department may post on its Internet website:

(a) The requirements to obtain a license from the Department; and

(b) A list of crimes, if any, that would disqualify a person from obtaining a license from the Department.

8. The Department may request the criminal history record of a person who petitions the Department for a determination pursuant to subsection 1. To the extent consistent with federal law, if the Department makes such a request of a person, the Department shall require the person to submit his or her criminal history record which includes a report from:



- (a) The Central Repository for Nevada Records of Criminal History; and
- (b) The Federal Bureau of Investigation.

9. A person who petitions the Department for a determination pursuant to subsection 1 shall not submit false or misleading information to the Department.

10. The Department shall, on or before the 20th day of January, April, July and October, submit to the Director of the Legislative Counsel Bureau in an electronic format prescribed by the Director, a report that includes:

- (a) The number of petitions submitted to the Department pursuant to subsection 1;
- (b) The number of determinations of disqualification made by the Department pursuant to subsection 1;
- (c) The reasons for such determinations; and
- (d) Any other information that is requested by the Director or which the Department determines would be helpful.

11. The Director shall transmit a compilation of the information received pursuant to subsection 10 to the Legislative Commission quarterly, unless otherwise directed by the Commission.

576.040. Bonds and other security; penalty for selling or encumbering security for bond

1. Each applicant to whom a license to act as a dealer, broker or commission merchant is issued shall:

(a) File one of the following:

(1) A bond of a surety company authorized to do business in this state.

(2) A bond with individual sureties owning unencumbered real property within this state subject to execution and worth, above all exemptions, double the amount of the bond.

(3) A personal bond secured by a first deed of trust on real property within this state which is subject to execution and worth, above all exemptions, double the amount of the bond. If the applicant files the bond with the Department, the applicant shall also file a policy of title insurance on the real property from a title insurance company licensed in this state which states that the property is free and clear of all encumbrances and liens other than the first deed of trust. The applicant shall certify under oath that the property is worth at least twice the amount of the bond and that it is unencumbered. The certificate must be approved by the Department.



The bond must be in the form prescribed by, and to the satisfaction of, the Department, conditioned for the payment of a judgment against the applicant and arising out of the failure of the applicant or the applicant's agent to conduct the applicant's business in accordance with the provisions of this chapter, or for nonpayment of obligations in connection with the purchase and sale of livestock or farm products. The bond must provide that the surety company, if any, will notify the Department before the end of the second business day after any claim or judgment has been made against the bond. The aggregate liability of any surety to all claimants is limited to the amount of the bond for each licensing period.

(b) File a copy of the bond required by the United States pursuant to the provisions of the Packers and Stockyards Act, 7 U.S.C. § 204.

(c) Furnish other security in the amount required by this section which is acceptable to the Department.

2. In lieu of complying with one of the alternatives provided in subsection 1, the dealer, broker or commission merchant may deliver to the Department the receipt of a bank, credit union or trust company in this state showing the deposit with that bank, credit union or trust company of cash or of securities endorsed in blank by the owner thereof and of a market value equal at least to the required principal amount of the bond. The cash or securities must be deposited in escrow under an agreement conditioned as in the case of a bond. Any receipt must be accompanied by evidence that there are no unsatisfied judgments against the dealer, broker or commission merchant of record in the county in which he or she is doing business or resides. An action for recovery against any such deposit may be brought in the same manner as in the case of an action for recovery on a bond filed under the provisions of NRS 576.042.

3. The amount of the bond, other security or deposit must be:

(a) Based on the applicant's annual volume of purchases, according to a schedule adopted by the Department; and

(b) Not less than \$5,000 or more than \$100,000.

4. All bonds must be renewed or continued in accordance with regulations adopted by the Department.

5. Any licensed dealer, broker or commission merchant who knowingly sells or otherwise encumbers real property which is the security for a bond under subsection 1, after a policy of title insurance on that property has been issued and while the bond is in force, is guilty of a gross misdemeanor.

576.042. Civil action for violation of chapter or misrepresentation or fraud; limitation of actions; service of process

1. Any:



(a) Producer of livestock or farm products or the producer's agent or consignee or produce vendor;

(b) Licensed broker, dealer or commission merchant; or

(c) Nonprofit organization or association, including the Nevada Mineral Exhibition, 4-H clubs, the Future Farmers of America, the Nevada Junior Livestock Show, the Nevada State Livestock Show and the Nevada Hereford Association, who is injured by any violation of the provisions of this chapter, or by any misrepresentations or fraud on the part of any licensed dealer, broker or commission merchant, may maintain a civil action against the dealer, broker or commission merchant. If the dealer, broker or commission merchant is licensed, he or she may also maintain an action against the surety on any bonds, or the money or securities deposited in lieu of a bond. In such an action against an unlicensed dealer, broker or commission merchant, the injured person is entitled to treble damages.

2. Any person having a claim pursuant to subsection 1 against any licensed dealer, broker or commission merchant must begin legal action on any bond, or money or securities deposited in lieu of a bond, for recovery of the amount claimed to be due within 1 year after the claim has accrued.

3. Pursuant to subsection 4 of NRS 576.030, process may be served by delivering to the Director duplicate copies of the process and paying a fee established by regulation of the State Board of Agriculture. The service upon the Director shall be deemed service upon the dealer, broker or commission merchant. The Director shall forward one copy of the process by registered mail prepaid to the defendant dealer, broker or commission merchant, specifying the day and hour of service. The return receipt of the defendant is prima facie evidence of the completion of service. If service of summons is made upon the Director in accordance with the provisions of this subsection, the period within which the defendant must appear is extended 10 days. The provisions of this subsection are not exclusive, but if a defendant dealer, broker or commission merchant is found within the State of Nevada, he or she must be served with process in the State of Nevada.

576.045. Retention of money or securities deposited in lieu of bond after operations cease

If any licensed dealer, broker or commission merchant for any reason ceases to operate as such, the amount of money or securities deposited in lieu of a bond must be retained by the Department for 1 year. If after the expiration of 1 year after the cessation of such operation, no legal action has been commenced to recover against the money or securities, they must be delivered to the owner. If a legal action has been commenced within that time, all the money and securities must be held by the Department subject to the order of the district court.



576.048. Revocation for default; publication of notice of revocation

1. If the Department receives notice from a producer of livestock or farm products or the producer's agent or consignee or produce vendor of the default of a licensed dealer, broker or commission merchant, the Department shall issue an order to the licensee to show cause why his or her license should not be revoked. The notice must be in writing and set forth a time and place for a hearing to be held before the Director.
2. If a license is revoked pursuant to subsection 1, the Director shall, by publication in a newspaper of general circulation in the area, notify all known producers of livestock or farm products in the area in which the licensee operated that the license has been revoked.

576.050. Annual license fee

Each applicant for a license as a broker, dealer, commission merchant or agent shall pay to the Department an annual license fee established by regulation of the State Board of Agriculture.

576.060. Investigation of applicant; issuance of license

1. Upon receipt of an application for a license, accompanied by the license fee and a surety bond, other acceptable security, a copy of the bond required by the United States, or a deposit receipt, as provided in NRS 576.040, and the statement required pursuant to NRS 576.032, the Department shall examine the application, bond and other papers and, subject to the provisions of NRS 576.032 and 576.120, upon the completion of its investigation, the Department shall grant the license as applied for.
2. The Department shall complete its investigation and issue or deny the license within 30 days after receipt of the application, bond and other papers.

576.080. Form and contents of licenses

Licenses must be in such form as the Department may prescribe, must be under the seal of the Department and must set forth:

1. The name and address of the dealer, broker, commission merchant or agent.
2. The period of the license.
3. Such other information as the Department reasonably may require.
4. The amount of the bond, deposit or other security required by NRS 576.040.

576.090. Expiration of licenses

All licenses shall expire 1 year after the issuance thereof.

576.095. Licensing of other classifications without payment of fee



Any person who has applied for and obtained a license as a dealer, broker or commission merchant as provided in this chapter may apply for and secure a license in any other classification or classifications without payment of further fee upon complying with the provisions of this chapter relating to the licensing of the other classifications involved.

576.100. Agents: Designation; licensing; notice to Department; responsibility of principal; application

1. An agent shall not act for any dealer, broker or commission merchant unless:
 - (a) The dealer, broker or commission merchant is licensed and has designated the agent to act in his or her behalf; and
 - (b) The Department has been notified in writing and has approved the appointment of the agent.
2. The dealer, broker or commission merchant is accountable and responsible for contracts made by his or her agents.
3. An agent must, before approval by the Department, file an application with the Department pursuant to subsection 3 of NRS 576.030.

576.105. Application for renewal of license required to include information relating to state business license; grounds for denial of renewal of license

1. In addition to any other requirements set forth in this chapter, an applicant for the renewal of a license to act as a broker, dealer, commission merchant or agent must indicate in the application submitted to the Department whether the applicant has a state business license. If the applicant has a state business license, the applicant must include in the application the business identification number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS.
2. A license to act as a broker, dealer, commission merchant or agent may not be renewed by the Department if:
 - (a) The applicant fails to submit the information required by subsection 1; or
 - (b) The State Controller has informed the Department pursuant to subsection 5 of NRS 353C.1965 that the applicant owes a debt to an agency that has been assigned to the State Controller for collection and the applicant has not:
 - (1) Satisfied the debt;
 - (2) Entered into an agreement for the payment of the debt pursuant to NRS 353C.130; or
 - (3) Demonstrated that the debt is not valid.



3. As used in this section:

(a) “Agency” has the meaning ascribed to it in NRS 353C.020.

(b) “Debt” has the meaning ascribed to it in NRS 353C.040.

576.110. Investigation of transactions involving farm products

1. The Department on its own motion may, or upon the verified complaint of any interested party shall, investigate, examine or inspect any transaction involving solicitation, receipt, sale or attempted sale of farm products by any person or persons acting or assuming to act as a dealer, agent, commission merchant or broker, the intentional making of false statements as to condition and quantity of any farm products received or in storage, the intentional making of false statements as to market conditions, the failure to make payment for farm products within the time required by this chapter, and all other injurious transactions.

2. In furtherance of any such investigation, examination or inspection, the Department or any authorized representative may examine that portion of the ledgers, books, accounts, memoranda and other documents, farm products, scales, measures and other articles and things used in connection with the business of the person relating to the transaction involved.

576.120. Grounds for refusing to grant or renew or for suspension or revocation of license; notice and hearing

1. The Department may refuse to grant or renew a license or may suspend or revoke a license if, after notice and a hearing, the Department is satisfied of the existence of any of the following facts, the existence of which is hereby declared to be a violation of this chapter:

(a) That the applicant or licensee has intentionally made any false or misleading statement concerning the conditions of the market for any farm products.

(b) That the applicant or licensee has made fictitious sales or has been guilty of collusion to defraud the producer.

(c) That the licensee was intentionally guilty of fraud or deception in the procurement of the license.

(d) That the applicant or licensee has in the handling of any farm products been guilty of fraud, deceit or willful negligence.

(e) That the licensee, without reasonable cause, has failed or refused to execute or carry out a lawful contract with a producer.

(f) That the licensee, without reasonable cause, has issued checks for the payment of farm products received without sufficient money to cover them or has stopped payment on a check given in payment for farm products received.



(g) That the licensee, without reasonable cause, has failed to account or make payment for farm products as required by this chapter.

(h) That the licensee has knowingly employed an agent without causing the agent to comply with the licensing requirements of this chapter applicable to agents.

(i) That the licensee has failed or refused to maintain and file records as required by this chapter.

(j) That the licensee has failed or refused to maintain a bond or other security as required by the provisions of NRS 576.040.

2. The Department may suspend, pending inquiry, for not longer than 30 days, and after hearing or investigation may refuse to grant, renew or revoke any license as the case may require, if it is satisfied that the licensee has become bankrupt or insolvent, and is thereby unable to pay producer-creditors of the licensee, or producers with whom the licensee has executory or executed contracts for the purchase of farm products, or for the handling of farm products on consignment.

3. A license is suspended automatically, without action of the Department, if the bond filed pursuant to subsection 1 of NRS 576.040 is cancelled, and remains suspended until the bond is renewed.

4. In the case of any hearing held under the provisions of this section, there must be filed in the office of the Department a memorandum stating briefly the reasons of the Department for the denial, suspension or revocation of the license, but formal findings of fact need not be made or filed.

576.121. Mandatory suspension of license for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of license

1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a broker, dealer, commission merchant or agent, the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a license as a broker, dealer, commission merchant or agent that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was



suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

576.123. Records of commission merchants, dealers and brokers

1. Every commission merchant, having received any farm products for sale as a commission merchant, shall promptly make and keep a correct record showing in detail the following with reference to the handling, sale or storage of the farm products:

- (a) The name and address of the consignor.
- (b) The date received.
- (c) The condition and quantity upon arrival.
- (d) Date of the sale for account of the consignor.
- (e) The price for which sold.
- (f) An itemized statement of the charges to be paid by the consignor in connection with the sale.
- (g) The names and addresses of all purchasers if the commission merchant has any financial interest in the business of the purchasers, or if the purchasers have any financial interest in the business of the commission merchant, directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise, the interest must be noted in the records following the name of the purchaser.
- (h) A lot number or other identifying mark for each consignment, which number or mark must appear on all sales tags and other essential records needed to show the amount for which the farm products actually sold.
- (i) Any claim or claims which have been or may be filed by the commission merchant against any person for overcharges or for damages resulting from the injury or deterioration of the farm products by the act, neglect or failure of the person. The records must be open to the inspection of the Director and the consignor of farm products for whom the claim or claims are made.

2. Every dealer purchasing any farm products from the producer thereof shall promptly make and keep for 1 year a correct record showing in detail the following:

- (a) The name and address of the grower.
- (b) The date received.
- (c) The price to be paid.



(d) An itemized statement of any charges paid by the dealer for the account of the producer.

3. Every broker, upon negotiating the sale of farm products, shall issue to buyer and seller a written memorandum of sale, showing price, date of delivery, quality and other details concerned in the transaction. A copy of the memorandum must be retained by the broker for 1 year.

576.125. Accounting and remittances by commission merchants; records of sales; payments by dealers; penalties for nonpayment

1. If requested by his or her consignor, a commission merchant shall, before the close of the next business day following the sale of any farm products consigned to him or her, transmit or deliver to the owner or consignor of the farm products a true written account of the sale, showing the amount sold and the selling price. Remittance in full of the amount realized from such sales, including all collections, overcharges and damages, less the agreed commission and other charges, together with a complete account of sales, must be made to the consignor within 10 days after receipt of the money by the commission merchant, unless otherwise agreed in writing.

2. Each commission merchant shall retain a copy of all records covering each transaction for 1 year after the date thereof, which copy must at all times be available for and open to the confidential inspection of the Director and the consignor, or an authorized representative of the Director or consignor.

3. Each dealer shall pay for farm products delivered to him or her at the time and in the manner specified in the contract with the producer, but if no time is set by the contract, or at the time of the delivery, within 30 days after the delivery or taking possession of the farm products, except that livestock whose sale is subject to the Packers and Stockyards Act, 7 U.S.C. §§ 181 to 231, inclusive, must be paid for within the period required by that act and any applicable regulations adopted pursuant thereto.

4. A person who, with the intent to defraud, fails to make full payment for farm products purchased pursuant to this chapter within 10 days after receiving written notice of the fact that the payment is past due:

(a) Is guilty of a gross misdemeanor, if the amount owed is \$1,000 or less.

(b) Is guilty of a category D felony, if the amount owed is more than \$1,000, and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

576.127. Cargo manifests required to be carried on motor vehicles operated by dealers and commission merchants; suspension or cancellation of license for false statements on manifest



1. Each dealer and commission merchant operating a motor vehicle in the conduct of his or her licensed business shall carry on the motor vehicle a manifest on a form to be prescribed or approved by the Department showing:

(a) A description of the cargo on the motor vehicle.

(b) The brand inspection certificate number for any livestock being transported.

(c) Where and from whom the cargo was purchased.

(d) The weight or measure upon which the purchase was made and, if purchased upon weight, where and by whom weighed and the weight obtained at the weighing.

2. The manifest must be executed in triplicate. One copy must be given to the consignor or seller. One copy must be retained by the licensee, and the original, signed by the licensee, must be transmitted immediately to the Department.

3. Any false statements included on a manifest concerning the nature, quantity, weight, count, grade, quality or any other essential feature of the cargo constitute grounds for suspension or cancellation of the licensee's license issued pursuant to the provisions of this chapter.

576.128. Certification as actual producer of certain farm products: Regulations of Department; fees for certification; exemption from certain taxes and fees

1. The Department shall adopt regulations pursuant to which a person who is an actual producer of farm products other than any livestock, livestock product or poultry must obtain certification as an actual producer of farm products. The regulations may include provisions for the certification by reciprocity of a person who holds a similar certification from another jurisdiction where the requirements for that certification are substantially equal to the requirements in this state.

2. The Department may impose fees for the certification of a person as an actual producer of farm products specified in subsection 1 and any inspections necessary for that certification. The fees must be set in an amount which approximates the cost to the Department of performing those services and activities.

3. A person who obtains certification pursuant to this section is exempt from any:

(a) Tax or other fee imposed pursuant to NRS 244.335, 266.355, subsection 7 of NRS 266.600, NRS 268.095, 269.170 or 269.175, relating to the issuance of any license to sell or offer to sell, in its natural and unprocessed state directly to any consumer, restaurant or grocery store, farm products specified in subsection 1 for which the person has obtained certification pursuant to this section.

(b) Fee imposed for:



(1) The issuance of a permit pursuant to the provisions of chapter 446 of NRS to sell or offer to sell, in its natural and unprocessed state directly to any consumer, restaurant or grocery store, farm products specified in subsection 1 for which the person has obtained certification pursuant to this section; or

(2) Any inspection conducted pursuant to the provisions of chapter 446 of NRS relating to such a sale or offer to sell.

576.1285. Registration as produce vendor; regulations; exception for person certified as actual producer of farm products

1. Except as otherwise provided in subsection 2, the Department shall adopt regulations pursuant to which a person must register as a produce vendor.

2. A person who obtains certification pursuant to NRS 576.128 is not required to register as a produce vendor pursuant to this section.

576.129. Alternative livestock: Permit required; regulations of State Board of Agriculture

1. It is unlawful for any person to import, possess or propagate any alternative livestock unless the person first obtains from the State Board of Agriculture a permit that authorizes the person to do so.

2. The State Board of Agriculture shall adopt regulations for the importation, possession and propagation of alternative livestock. The regulations must set forth requirements for:

(a) Facilities used to confine alternative livestock, including minimum requirements for fencing to prevent the escape of alternative livestock.

(b) The genetic testing of alternative livestock.

(c) Keeping and maintaining records related to the importation, transfer, possession and propagation of alternative livestock.

(d) Identifying and marking alternative livestock.

(e) Marketing alternative livestock.

(f) The filing of any bonds which may be required by the State Board of Agriculture.

3. In adopting the regulations required by subsection 2, the State Board of Agriculture shall consult with the Department of Wildlife and the Board of Wildlife Commissioners concerning the provisions that are necessary to protect wildlife in this state and in the areas designated as areas of special concern by the Board of Wildlife Commissioners pursuant to NRS 501.181.

4. The State Board of Agriculture shall establish by regulation a schedule of fees required to be paid for a permit issued pursuant to this section.



The fees established must not exceed the approximate cost to the Board of carrying out the provisions of this section.

576.131. Alternative livestock: Recapture of escaped livestock; impoundment; liability of owner

1. An owner of alternative livestock may request assistance from the State Department of Agriculture, the Department of Wildlife and local law enforcement agencies to recapture any alternative livestock that has escaped from confinement.
2. Any alternative livestock that is recaptured may be impounded at a suitable facility until sufficient repairs or improvements are made to the owner's facility to ensure that the escape of the alternative livestock does not recur.
3. The owner of the alternative livestock is liable for:
 - (a) The costs incurred by the State Department of Agriculture, the Department of Wildlife and any local law enforcement agency to recapture the alternative livestock;
 - (b) The costs of impounding the alternative livestock; and
 - (c) Any damages caused by the alternative livestock during the escape.

576.132. Free-sale certificate for agricultural product; submission of application; requirements

The Department may provide a free-sale certificate for an agricultural product if:

1. An application is submitted in the manner prescribed by the Director;
2. The applicant is located in this State; and
3. The agricultural product is grown, produced or processed in this State.

576.133. Cease and desist orders

If the Director believes, on the basis of a verified complaint or of an investigation made pursuant to NRS 576.110, that any licensee or person assuming to transact business for which a license is required under this chapter is violating or is about to violate any provision of this chapter, the Director may order the licensee or other person to cease and desist from the unlawful practice. The order ceases to be effective upon the expiration of 10 days, exclusive of Saturdays, Sundays and other nonjudicial days, after its date of issuance unless a court has, pursuant to NRS 576.135, issued an order which continues the restraint.

576.135. Injunctions; restraining orders

If any licensee or person assuming to transact business for which a license is required under this chapter has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter or the rules and regulations adopted by the Department, the



district court of any county, on application of the Director, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this section are governed by Rule 65 of the Nevada Rules of Civil Procedure, except that no bond or undertaking is required in any action commenced by the Director.

576.137. Exemption for cash buyer purchasing for own use

A cash purchaser, purchasing for his or her own use, may be exempted by the Department from the requirements of this chapter upon the purchaser's filing of an affidavit stating such facts as may be required by the Department.

576.140. Inapplicability of chapter

Except as otherwise provided in NRS 576.042, the provisions of this chapter do not apply to:

1. The Nevada Mineral Exhibition, 4-H clubs, the Future Farmers of America, the Nevada Junior Livestock Show, the Nevada State Livestock Show, the Nevada Hereford Association, or any other nonprofit organization or association.
2. Any railroad transporting livestock interstate or intrastate.
3. Any farmer or rancher purchasing or receiving livestock for grazing, pasturing or feeding on his or her premises within the State of Nevada and not for immediate resale.
4. Operators of public livestock auctions as defined in NRS 573.010, and all buyers of livestock at those auctions at which the public livestock auction licensee does not control title or ownership to the livestock being sold or purchased at those auctions, and any person buying for interstate shipments only and subject to and operating under a bond required by the United States pursuant to the provisions of the Packers and Stockyards Act, 7 U.S.C. § 204, and the regulations adopted pursuant to those provisions.
5. Persons who conduct annual sales of livestock as defined in NRS 573.010.
6. Any farmer or rancher whose farm or ranch is located in the State of Nevada, who buys or receives farm products or livestock from another farmer or rancher not for immediate resale.
7. Any retail merchant having a fixed and established place of business in this state and who conducts a retail business exclusively.

576.150. Civil and criminal penalties; venue; use of money collected

1. Except as otherwise provided by a specific statute, a person who acts as a dealer, broker, commission merchant or agent without a license therefor as required by the provisions of this chapter, or who violates any other provision of this chapter, or any of the regulations lawfully adopted pursuant to provisions of this chapter, is guilty of a misdemeanor. If the violation relates to the failure to make payment for farm products, an



intent to defraud must be proven before a misdemeanor or other penalty may be imposed.

2. Any prosecution brought pursuant to this chapter may be brought in any county of this State in which the defendant or any one of the defendants resides, or in which the unlawful act was committed, or in which the defendant or any one of the defendants has his or her principal place of business.

3. In addition to any criminal penalty imposed pursuant to, or any remedy provided by, this chapter, the Director, after notice and a hearing in an administrative proceeding, may issue an order against any person who has violated any provision of this chapter or any regulation adopted pursuant to this chapter imposing a civil penalty of not more than \$5,000 for each violation.

4. Any money collected from the imposition of a civil penalty pursuant to subsection 3 must be accounted for separately and:

(a) Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and

(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.

