

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

381H0657

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1254** -

02/05/2002

Introduced by: Representatives Fryslie, Duenwald, Hanson (Gary), and Jensen and Senators
Diedrich (Larry), Ham, and Symens

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to livestock auction
2 agencies and livestock dealers and to establish a penalty.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 40-15 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For purposes of this chapter, the term, livestock, means cattle, sheep, horses, mules, swine,
7 goats, and buffalo.

8 Section 2. That § 40-15-10 be amended to read as follows:

9 40-15-10. No person may operate a livestock auction agency without first filing with the
10 Animal Industry Board a corporate surety bond as required under the provisions of the Federal
11 Packers and Stockyard Act, 1921, as amended to January 1, 2002, for livestock agencies selling
12 on commission. The bond shall be filed with the Animal Industry Board and a certified copy
13 thereof shall be filed with the chief of the Packers and Stockyards Division of the United States
14 Department of Agriculture. The obligee of the bond ~~shall be~~ is the Animal Industry Board with



1 the executive secretary thereof as trustee, with full power and authority to consider claims and
2 pay valid claims from bond proceeds, subject to applicable federal law. The bond shall be for the
3 benefit of all persons sustaining loss which may be covered by the obligation of the bond. The
4 bond shall be approved by the Animal Industry Board as to its sufficiency and by the attorney
5 general as to form prior to filing. The amount of the bond may not be less than twenty thousand
6 dollars. Any person who operates a livestock auction agency in violation of this section is guilty
7 of a Class 1 misdemeanor.

8 Section 3. That chapter 40-15 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 If a livestock auction agency's license is relinquished, revoked, or suspended by the Animal
11 Industry Board, subject to applicable federal law, the Animal Industry Board may assume control
12 of any account and funds described in § 40-15-31, including collection of any deposit items,
13 identification and processing of claims to the funds, and payment of valid claims from the
14 available funds.

15 Section 4. That § 40-15-36 be amended to read as follows:

16 40-15-36. The Animal Industry Board shall enforce the provisions of this chapter and may
17 promulgate rules pursuant to chapter 1-26 concerning:

- 18 (1) The licensure of livestock auction agencies;
- 19 (2) The requirements for facilities;
- 20 (3) The handling of any animal found to be affected with any infectious, contagious, or
21 transmissible disease;
- 22 (4) The requirements for inspecting, examining, and testing of livestock passing through
23 a livestock auction agency; ~~and~~
- 24 (5) The reporting and record keeping requirements for livestock auction agencies; and

1 (6) Procedures for the consideration, processing, and payment of claims from bond
2 proceeds and, if a livestock auction agency's license is relinquished, revoked or
3 suspended, procedures for the collection of deposit items, processing of claims to the
4 funds, and payment of valid claims in accordance with sections 2 and 3 of this Act.

5 Such rules shall be sent to each licensed auction agency, there to be posted by such agency
6 plainly, visibly, and conspicuously, and with the license on the premises so as to be available to
7 any person using the service of such agency.

8 Section 5. That subdivision (3) of § 40-15A-1 be amended to read as follows:

9 (3) "Livestock," cattle, sheep, horses, mules, swine, buffalo, and goats;

10 Section 6. That § 40-15A-5 be amended to read as follows:

11 40-15A-5. Every livestock dealer, packer or packer buyer applying for a license under this
12 chapter shall file with the animal industry board and maintain a fully executed duplicate of a valid
13 and effective bond in the form and amount to be determined by the board, ~~or if he~~. If the
14 livestock dealer, packer, or packer buyer is registered and bonded under the provisions of an act
15 of Congress cited as the "Packers and Stockyards Act, 1921," adopted August 15, 1921, as
16 amended to January 1, 2002, and codified at 7 U.S.C. Chapter 9, the livestock dealer, packer,
17 or packer buyer shall file a statement in the form prescribed by the board evidencing that ~~he~~ the
18 livestock dealer, packer, or packer buyer is maintaining a valid and effective bond or its
19 equivalent under said act. If a packer buyer is in full-time employ of a packer bonded under this
20 section, ~~such~~ the packer buyer need not be bonded. The bond shall be for the benefit of all
21 persons sustaining a loss which may be covered by the obligation of the bond. The obligee of the
22 bond shall be the Animal Industry Board with the executive secretary of the board as trustee,
23 with full power and authority to consider claims and pay valid claims from bond proceeds subject
24 to applicable federal law. The Animal Industry Board may promulgate rules, pursuant to chapter

1 1-26, to establish procedures for the consideration, processing, and payment of claims from bond
2 proceeds in accordance with this section. Any livestock dealer, packer, or packer buyer in
3 violation of this section is guilty of a Class 1 misdemeanor.