

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1318

BY: BATES

AS INTRODUCED

AN ACT RELATING TO AGRICULTURE; AMENDING 2 O.S. 1981, SECTIONS 9-131, 9-132, AS AMENDED BY SECTION 11, CHAPTER 309, O.S.L. 1986, 9-133, 9-134, 9-135, 9-136 AND 9-137 (2 O.S. SUPP. 1990, SECTION 9-132), WHICH RELATE TO LIVESTOCK AUCTIONS; CREATING THE LIVESTOCK AUCTION MARKET ACT; MODIFYING TERMS; REQUIRING CERTAIN BONDS OR CERTIFICATE OF DEPOSIT ACCOUNTS OR MONEY MARKET SAVINGS ACCOUNT; SPECIFYING CERTAIN RESTRICTIONS; PROVIDING PROCEDURES; MAKING CERTAIN ACTIONS A FELONY; REQUIRING CERTAIN PUBLICATIONS AND NOTICES; CLARIFYING STATUTORY LANGUAGE; INCREASING TIME PERIODS FOR KEEPING RECORDS; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-130 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Livestock Auction Market Act".

SECTION 2. AMENDATORY 2 O.S. 1981, Section 9-131, is amended to read as follows:

Section 9-131. ~~The term "person", as used in this subarticle, is hereby defined to mean and include~~ For purposes of the Livestock Auction Market Act:

1. "Person" means any individual, firm, partnership, association, organization or corporation; and

~~The term "livestock~~ 2. "Livestock auction markets market", as used in this subarticle, is hereby defined to mean and include means any established place where livestock is regularly offered for sale at public auction.

SECTION 3. AMENDATORY 2 O.S. 1981, Section 9-132, as amended by Section 11, Chapter 309, O.S.L. 1986 (2 O.S. Supp. 1990, Section 9-132), is amended to read as follows:

Section 9-132. A. ~~It shall be unlawful and a misdemeanor for any~~ Except as otherwise provided by subsection B of this section, no person ~~to~~ shall operate, conduct or maintain a livestock auction market unless such person holds a livestock auction market license issued by the State Board of Agriculture and has:

1. executed a corporate surety bond in the sum of Twenty-five Thousand Dollars (\$25,000.00) pursuant to the provisions of this section. The bond shall be conditioned upon the prompt and faithful accounting for all livestock received, handled or sold, and the remittance of the proceeds from any sale, purchase or exchange of any livestock to the consignor thereof; ~~provided, that such or~~

2. opened a certificate of deposit account or a money market savings account. For a certificate of deposit account or a money market savings account to be eligible pursuant to the provisions of this section:

a. the account must be opened at a federally insured financial depository,

- b. an officer of the financial depository must specifically acknowledge and guarantee the deposit of the funds required by subsection B of this section until otherwise released pursuant to this subsection,
- c. the person operating, conducting or maintaining a livestock auction market may only withdraw any funds deposited in a certificate of deposit account or a money market savings account one hundred twenty (120) days after such person has permanently ceased operations of such livestock auction market unless such person presents to the financial institution a written authorization for release of funds by the Oklahoma Department of Health.

B. The corporate surety bond or account bond required by subsection A of this section for any person operating, conducting or maintaining a livestock auction market shall be in the amount of Twenty-five Thousand Dollars (\$25,000.00). For good cause shown concerning violations of the Livestock Auction Market Act or rules promulgated thereto, the Board after notice and hearing may require the filing of a corporate surety bond or opening of an account in an amount greater than Twenty-five Thousand Dollars (\$25,000.00) but not to exceed One Hundred Thousand Dollars (\$100,000.00).

C. The corporate surety bond or account required by subsection A of this section shall not be required of any person who, as to such livestock auction markets, has executed and maintained a corporate surety bond or account of at least Twenty-five Thousand Dollars (\$25,000.00) to secure the performance of his obligations under the provisions of the Federal Packers and Stockyards Act, as amended. A letter of credit is not acceptable.

D. 1. Any person required by subsection A or C of this section to execute a bond for operating, conducting or maintaining a livestock auction market upon receiving notice that such bond is to

be canceled or nonrenewed shall notify the Board within seven (7) days in writing of such notice of cancellation or nonrenewal.

Notification to the Board shall include the reason for such nonrenewal or cancellation, whether a new bond has been obtained and if so the name of the bonding company.

2. The Board shall provide for the publication of notice to the public of the nonrenewal or cancellation of the bond for a livestock auction market upon any notification that the bond of the livestock auction market has been nonrenewed or canceled and no new bond has been obtained.

3. It shall be the responsibility of the person operating, conducting or maintaining a livestock auction market to notify the Board of the cancellation or nonrenewal of any such bond.

4. No person shall operate, conduct or maintain a livestock auction market without a bond in place.

B. E. All records relating to the prompt and faithful accounting for all livestock received, handled or sold, and the remittance of the proceeds from any sale, purchase or exchange of any livestock to the consignor thereof shall be in accordance with the provisions of the Federal Packers and Stockyards Act, ~~1921~~, as amended. The State Board of Agriculture or its authorized agent shall audit such records at least once a year. Any violation of the standards of said Act shall result in the immediate suspension of the livestock auction market license.

F. Any person violating the provisions of this section, upon conviction, shall be guilty of a felony.

SECTION 4. AMENDATORY 2 O.S. 1981, Section 9-133, is amended to read as follows:

Section 9-133. Every application for a livestock auction market license shall be on a form prescribed by the State Board of Agriculture. Each such license shall expire one (1) year after its issuance or renewal, and a fee of ~~Twenty-five Dollars (\$25.00)~~ One

Hundred Dollars (\$100.00) shall be charged and collected for the issuance or renewal of any such license. Any such license may be revoked or suspended by the Board, after due notice in writing and an opportunity to be heard has been given to the holder thereof, upon the failure of such holder to ~~keep~~ comply with the corporate surety bond ~~required herein in full force and effect~~ or account requirements or upon ~~his~~ failure of the licensee to comply with any of the provisions of ~~Sections~~ Section 6-102 ~~or 9-131 through 9-137~~ of this title or the Livestock Auction Market Act or any rule or regulation adopted ~~hereunder~~ thereto.

SECTION 5. AMENDATORY 2 O.S. 1981, Section 9-134, is amended to read as follows:

Section 9-134. A. Every person operating or conducting a livestock auction market shall make, and keep for ~~one (1) year~~ two (2) years, a record showing an identifying description, including legible brands and marks, vehicle license tag number, and the names and addresses of the buyer and seller of livestock consigned for sale at such livestock auction markets ~~and a failure to do so shall be a misdemeanor, and upon the conviction thereof, shall be punished by payment of a fine of not to exceed One Hundred Dollars (\$100.00) or confined in the county jail not to exceed ten (10) days or by both such fine and confinement.~~ Such records shall be open to inspection during reasonable business hours by any ~~special policeman~~ authorized agent employed by the State Board of Agriculture ~~and or~~ by any other law enforcement officer of this state; ~~provided,~~ however, that such.

B. Any records required to be kept pursuant to subsection A of this section may not be removed from the premises by said ~~policeman~~ agent or officer without the express authority of the person who has jurisdiction over such records or except as otherwise authorized by a court of law. These records may be photocopied at the request of the agent or officer.

C. Any person convicted of violating the provisions of subsection A of this section shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail not to exceed thirty (30) days or by both such fine and imprisonment.

SECTION 6. AMENDATORY 2 O.S. 1981, Section 9-135, is amended to read as follows:

Section 9-135. A. The State Board of Agriculture shall cause a periodic inspection to be made of all scales used at any livestock auction market, ~~and it shall be unlawful and a misdemeanor to use any scales found to be inaccurate until such scales have been made accurate and have been approved as to accuracy by the Board. From and after January 1, 1958, all.~~ All scales used at any livestock auction market shall have an automatic stamping device so as to print the weight on a card, paper or ticket to be furnished interested parties in connection with the weighing of any livestock handled at the livestock auction market.

B. No person shall use any scales found to be inaccurate until such scales have been made accurate and have been approved as to accuracy by the Board.

C. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor.

SECTION 7. AMENDATORY 2 O.S. 1981, Section 9-136, is amended to read as follows:

Section 9-136. A. ~~It shall be unlawful and a misdemeanor for any~~ No person shall buy or offer to buy livestock on the premises owned and used by a person or corporation operating a livestock auction market before such livestock has been regularly consigned for sale thereat.

B. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor.

SECTION 8. AMENDATORY 2 O.S. 1981, Section 9-137, is amended to read as follows:

Section 9-137. The State Board of Agriculture shall have authority to adopt and ~~enforce~~ promulgate such rules and regulations as it deems necessary to carry out the provisions of ~~this subarticle~~ the Livestock Auction Market Act.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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