

Effective 7/1/2017

Chapter 30 Livestock Markets

4-30-101 Title.

This chapter is known as "Livestock Markets."

Enacted by Chapter 345, 2017 General Session

4-30-102 Definitions.

For the purpose of this chapter:

- (1) "Consignor" or "shipper" means any person who consigns, ships, or delivers livestock to a livestock market for storage, handling, or sale.
- (2)
 - (a) "Livestock market" means a public market place consisting of pens or other enclosures where all classes of livestock or poultry are received on consignment and kept for subsequent sale, either through public auction or private sale.
 - (b) "Livestock market" does not include:
 - (i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock breeder, or feeder who is going out of such business; or
 - (ii) a place where an association of livestock breeders or an individual livestock breeder offers registered livestock or breeding sires for sale and assumes all responsibility for the sale, guarantees title to the livestock or sires sold, and arranges with the department for brand inspection of all animals sold.
- (3) "Person" means an individual, partnership, corporation, or association.

Renumbered and Amended by Chapter 345, 2017 General Session

4-30-104 Department authorized to make and enforce rules.

The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce such rules necessary to administer and enforce this chapter.

Renumbered and Amended by Chapter 345, 2017 General Session

4-30-105 License required -- Application -- Fee -- Expiration -- Renewal.

- (1)
 - (a) No person may operate a livestock market in this state without a license issued by the department.
 - (b) Application for a license shall be made to the department upon forms prescribed and furnished by the department, and the application shall specify:
 - (i) if the applicant is an individual, the name, address, and date of birth of the applicant; or
 - (ii) if the applicant is a partnership, corporation, or association, the name, address, and date of birth of each person who has a financial interest in the applicant and the amount of each person's interest;
 - (iii) a certified statement of the financial assets and liabilities of the applicant detailing:
 - (A) current assets;
 - (B) current liabilities;

- (C) long-term assets; and
 - (D) long-term liabilities;
 - (iv) a legal description of the property where the market is proposed to be located, the property's street address, and a description of the facilities proposed to be used in connection with the property;
 - (v) a schedule of the charges or fees the applicant proposes to charge for each service rendered; and
 - (vi) a detailed statement of the trade area proposed to be served by the applicant, the potential benefits which will be derived by the livestock industry, and the specific services the applicant intends to render at the livestock market.
- (2)
- (a) Upon receipt of a proper application, payment of a license fee in an amount determined by the department pursuant to Subsection 4-2-103(2), the commissioner, if satisfied that the convenience and necessity of the industry and the public will be served, shall issue a license allowing the applicant to operate the livestock market proposed in the application valid through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.
 - (b) A livestock market license is annually renewable on or before December 31 of each year upon the payment of an annual license renewal fee in an amount determined by the department pursuant to Subsection 4-2-103(2).
- (3) No livestock market original or renewal license may be issued until the applicant has provided the department with a certified copy of a surety bond filed with the United States Department of Agriculture as required by the Packers and Stockyards Act, 1921, 7 U.S.C. Section 181 et seq.

Amended by Chapter 154, 2020 General Session

4-30-106 Hearing on license application -- Notice of hearing.

- (1) Upon the filing of an application, the department may set a time for hearing on the application in the city or town nearest the proposed site of the livestock market and cause notice of the time and place of the hearing together with a copy of the application to be forwarded by mail, not less than 15 days before the hearing date, to the following:
- (a) each licensed livestock market operator within the state; and
 - (b) each livestock or other interested association or group of persons in the state that has filed written notice with the department requesting receipt of notice of such hearings.
- (2) Notice of the hearing shall be published for 14 days before the scheduled hearing date, as a class A notice under Section 63G-30-102, for the city or town where the hearing is scheduled.

Amended by Chapter 435, 2023 General Session

Amended by Chapter 528, 2023 General Session

4-30-107 Guidelines delineated for decision on application.

- (1) The department, in determining whether to approve or deny the application, shall consider:
- (a) the applicant's proven or potential ability to comply with the Packers and Stockyards Act, 7 U.S.C. Sec. 221 through 229b;
 - (b) the financial stability, business integrity, and fiduciary responsibility of the applicant;
 - (c) the livestock marketing benefits which potentially will be derived from the establishment and operation of the public livestock market proposed;
 - (d) the need for livestock market services in the trade area proposed;

- (e) the adequacy of the livestock market location and facilities proposed in the application, including facilities for health inspection and testing;
 - (f) whether the operation of the proposed livestock market is likely to be permanent; and
 - (g) the economic feasibility of the proposed livestock market based on competent evidence.
- (2) Any interested person may appear at the hearing on the application and give an opinion or present evidence either for or against granting the application.

Amended by Chapter 154, 2020 General Session

4-30-108 Transfer of livestock market license permitted -- Conditions.

- (1) No livestock market license is transferable to another person without the prior approval of the commissioner.
- (2) A change in the membership of a partnership or association, or the sale or transfer of a 25% or greater interest in the stock ownership of a corporate livestock market shall be considered a transfer of the livestock market license and is subject to the requirements of this section.
- (3) Application to allow transfer of a livestock market license shall be made to the department on a form prescribed and furnished by the department.
- (4) The commissioner may grant a transfer of the license:
 - (a) if the proposed transferee meets all the requirements specified for an original license in Section 4-30-105; and
 - (b) based on the criteria specified in Section 4-30-107.

Renumbered and Amended by Chapter 345, 2017 General Session

4-30-109 Financial responsibility.

Each livestock market shall maintain a financial condition of total assets in excess of total liabilities, including total current assets in excess of total current liabilities.

Renumbered and Amended by Chapter 345, 2017 General Session

4-30-110 Custodial accounts for trust funds.

- (1)
 - (a) Each payment that a livestock buyer makes to a livestock market selling on commission is a trust fund.
 - (b) Funds deposited into custodial accounts are trust funds.
- (2) Each livestock market engaged in selling livestock on a commission or agency basis shall establish and maintain a separate bank account designated as "custodial account for shippers' proceeds," or some similar identifying designation, to disclose that the depositor is acting as a fiduciary and that the funds in the account are trust funds.
- (3)
 - (a) The livestock market shall deposit into its custodial account before the close of the next business day after the livestock is sold:
 - (i) the proceeds that have been collected from the sale of the livestock; and
 - (ii) an amount equal to the proceeds receivable from the sale of livestock that are due from:
 - (A) the livestock market;
 - (B) any owner, officer, or employee of the livestock market; and
 - (C) any buyer to whom the livestock market has extended credit.

- (b) The livestock market shall thereafter deposit into the custodial account all proceeds collected until the account has been reimbursed in full and shall, before the close of the seventh day following the sale of livestock, deposit an amount equal to all the remaining proceeds receivable regardless of whether the proceeds have been collected by the livestock market.
- (4) The custodial account shall be drawn on only:
 - (a) for payment of the net proceeds to the consignor or shipper, or to any person that the livestock market knows is entitled to payment;
 - (b) to pay lawful charges against the consignment of livestock which the market agency shall, in its capacity as agent, be required to pay; and
 - (c) to obtain any sums due the livestock market as compensation for its services.
- (5)
 - (a) Each livestock market shall keep accounts and records that will disclose at all times the handling of funds in the custodial account.
 - (b) Accounts and records shall at all times disclose the name of the consignors and the amount due and payable to each from funds in the custodial account.
- (6) The custodial account shall be established and maintained in a bank whose deposits are insured by the Federal Deposit Insurance Corporation.

Renumbered and Amended by Chapter 345, 2017 General Session

4-30-111 Weighman license required -- Application -- Fee -- Bond -- Expiration -- Renewal.

- (1)
 - (a) No person may act as a weighman at a livestock market without a license from the department.
 - (b) Application for a weighman's license shall be made to the department upon forms prescribed and furnished by the department.
 - (c) Upon receipt of a proper application, payment of a license fee in an amount determined by the department pursuant to Subsection 4-2-103(2), and deposit of either a corporate surety bond or trust fund agreement with the department in the principal amount of \$1,000, the commissioner shall issue a license allowing the applicant to act as a weighman through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.
 - (d) A weighman's license is annually renewable on or before December 31 of each year upon the payment of an annual license renewal fee in an amount determined by the department pursuant to Subsection 4-2-103(2).
- (2)
 - (a) Each weighman's surety bond shall be written by a surety licensed under the laws of Utah and name the state, as obligee, for the use and benefit of persons who consign livestock to a livestock market.
 - (b) The bond shall further be conditioned for the faithful and accurate weighing of livestock consigned to a livestock market and for the payment of court costs and reasonable attorney fees to the prevailing party incident to any suit brought upon the bond.

Renumbered and Amended by Chapter 345, 2017 General Session

4-30-112 Suspension or revocation of license -- Grounds.

The department is authorized to suspend or revoke the license of any livestock market or livestock market weighman who:

- (1) violates any provision of this chapter or any rule made under this chapter; or
- (2) engages in any fraudulent or deceitful activity.

Renumbered and Amended by Chapter 345, 2017 General Session