

House File 617

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AN ACT

REQUIRING THAT DEALERS OF CERTAIN SWINE FILE EVIDENCE OF FINANCIAL RESPONSIBILITY WITH THE DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP.

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Section 1. Section 163.30, subsection 3, unnumbered paragraph 1, Code 2003, is amended to read as follows:
~~No A person shall not act as a dealer without first securing unless the department issues the person a dealer's license from the department. The person must be licensed as a dealer regardless of whether the swine originate in this state or another jurisdiction or the person resides in this state or another jurisdiction. The jurisdiction may be in another state or a foreign nation.~~

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~~a. The fee for a dealer's license shall be is five dollars per annum and all licenses shall expire each year. A license expires on the first day of July following the date of issue. Licenses A license shall be numbered and the dealer shall retain the number from year to year.~~
3A. To ~~secure~~ be issued a license, ~~the an~~ applicant must file a surety bond with the department ~~a bond in the sum of.~~
~~The applicant shall file a standard surety bond of ten thousand dollars with the secretary named as trustee, for the use and benefit of anyone damaged by a violation of this section, except that the bond shall not be required for dealers who are bonded in the same or a greater amount than required pursuant to the federal Packers and Stockyards Act. In addition, the department may require that a licensee file evidence of financial responsibility with the department prior to a license being issued or renewed as provided in section 202C.2.~~

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Sec. 2. NEW SECTION. 202C.1 DEFINITIONS.
As used in this chapter, unless the context otherwise requires:
1. "Dealer" means a person required to be licensed as a dealer pursuant to section 163.30. However, a dealer does not include a person who operates a livestock market, as defined in section 459.102.
2. "Department" means the department of agriculture and land stewardship.
3. "Feeder pig" means an immature swine fed for purposes of direct slaughter which weighs one hundred pounds or less.
4. "Financial institution" means a bank or savings and loan association authorized by this state or by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation.
5. "Purchaser" means the owner or operator of a farm as provided in section 163.30 who is delivered feeder pigs pursuant to a sales agreement in which the owner or operator is a party.
6. "Sales agreement" means an oral or written contract executed between a dealer and a purchaser for the sale of feeder pigs.

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Sec. 3. NEW SECTION. 202C.2 EVIDENCE OF FINANCIAL RESPONSIBILITY == REQUIREMENTS.
1. A dealer shall provide the department with evidence of financial responsibility as required by the department. The evidence of financial responsibility shall consist of a surety bond furnished by a surety or an irrevocable letter of credit issued by a financial institution.
2. The evidence of financial responsibility shall be provided to the department before the dealer's license is issued or renewed pursuant to section 163.30.
3. The amount of the evidence of financial responsibility shall be established by rules which shall be adopted by the department. Unless the department otherwise has good cause, the rules shall be based upon the volume of sales reported by the dealer to the United States packers and stockyards administration. However, the evidence of financial responsibility shall not be for less than fifty thousand

3 6 dollars or for more than three hundred thousand dollars.
3 7 4. The evidence of financial responsibility must be
3 8 conditioned upon the dealer's faithful performance of the
3 9 terms and conditions of the sales agreement. The surety's or
3 10 issuer's liability extends to each such sales agreement
3 11 executed while the surety bond or letter of credit is in force
3 12 and until performance or the rescision of the sales agreement.
3 13 5. The evidence of financial responsibility shall be
3 14 continuous in nature until canceled by the surety or issuer.
3 15 The surety or issuer shall provide at least ninety days'
3 16 notice in writing to the dealer and the department indicating
3 17 the surety's or issuer's intent to cancel the surety bond or
3 18 letter of credit and the effective date of the cancellation.
3 19 The dealer shall have sixty days from the date of receipt of
3 20 the surety's or issuer's notice of cancellation to file a
3 21 replacement. However, the surety or issuer remains liable for
3 22 damages arising from sales agreements which were executed
3 23 during the effective period of the evidence of financial
3 24 responsibility.

3 25 Sec. 4. NEW SECTION. 202C.3 SURETY OR ISSUER ==
3 26 LIABILITY.

3 27 1. The purchaser may bring a legal action arising from the
3 28 breach of a sales agreement against the surety on the bond or
3 29 issuer on the irrevocable letter of credit in the purchaser's
3 30 own name in district court to recover any damages as allowed
3 31 by law. The purchaser may also be awarded interest as
3 32 determined pursuant to section 668.13, beginning from the date
3 33 that the sales agreement was executed. The purchaser may also
3 34 be awarded court costs and reasonable attorney fees, which
3 35 shall be taxed as part of the costs of the legal action.

4 1 2. The aggregate liability of the surety or issuer due to
4 2 a breach of a sales agreement shall not exceed the amount of
4 3 the evidence of financial responsibility.

4 4 Sec. 5. NEW SECTION. 202C.4 DEPARTMENTAL RULES.

4 5 The department shall adopt rules as required to administer
4 6 this chapter, including but not limited to rules providing for
4 7 amounts of evidence of financial responsibility,
4 8 qualifications for a surety or financial institution,
4 9 procedures for filing evidence of financial responsibility,
4 10 including replacement bonds or letters of credit, requirements
4 11 for the cancellation of the evidence of financial
4 12 responsibility, and the liability of a surety or issuer after
4 13 cancellation.

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CHRISTOPHER C. RANTS
Speaker of the House

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MARY E. KRAMER
President of the Senate

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4 25 I hereby certify that this bill originated in the House and
4 26 is known as House File 617, Eightieth General Assembly.

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MARGARET THOMSON
Chief Clerk of the House

4 32 Approved _____, 2003

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5 1 THOMAS J. VILSACK
5 2 Governor