

MAR 9 1971

HOUSE FILE 391

Place On Calendar

*Referred Ways and Means 3/23 By COMMITTEE ON AGRICULTURE
Pass per Committee amendment 4/5
Sen. Agriculture 4/20, Pass per amendment 5/3
" " 1/10/72, " " " 1/20/72*

Passed House, Date 4-13-71 Passed Senate, Date 1-31-72

Vote: Ayes 80 Nays 12 Vote: Ayes 45 Nays 0

Approved 5/2/72

Passed House as amended by Senate

*2-3-72
ayes 21, nays 4*

A BILL FOR

1 An Act relating to the bonding of operators of slaughterhouses
2 buying cattle, hogs, or sheep, and the bonding of agents,
3 dealers, or brokers of such operators, and providing a
4 penalty.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. When used in this Act, unless the context
2 otherwise requires:

3 1. "Animals" or "livestock" includes cattle, calves,
4 swine, or sheep.

5 2. "Person" means an individual, partnership, association
6 or corporation, or any other business unit.

7 3. "Dealer" or "broker" means any person determined by
8 the department of agriculture to be engaged in the business
9 of slaughtering live animals or receiving or buying live
10 animals for slaughter.

11 4. "Agent" means a person engaged in the business of
12 buying livestock for slaughter on behalf of any dealer or
13 broker.

14 5. "Department" means the department of agriculture of
15 this state.

16 Sec. 2. No person shall act as a dealer or broker without
17 first being licensed. No agent shall act for any dealer or
18 broker unless such dealer or broker is licensed, has designated
19 such agent to act in his behalf, and has notified the depart-
20 ment of the designation in his application for license or
21 has given official notice in writing of the appointment of
22 the agent and requested the department to issue to the agent
23 an agent's license. A dealer or broker shall be accountable
24 and responsible for contracts made by an agent in the course
25 of his employment. The license of an agent whose services
26 are terminated by or with the dealer or broker shall be void
27 on the date written notice of termination is received by the
28 department. The license of a dealer, broker, or agent, unless
29 revoked, shall expire on the last day of June following the
30 date of issue. The annual fee for the license of a dealer
31 or broker is twenty-five dollars. The annual fee for an
32 agent's license is ten dollars.

33 Sec. 3. Application for a license as a dealer or broker
34 or as an agent shall be made in writing to the department.
35 The application shall state the nature of the business, the

1 municipal corporation, township and county, the post office
2 address at which the business is to be conducted, and such
3 additional information as the department may prescribe.

4 The applicant upon satisfying the department of his
5 character and good faith in seeking to engage in such business
6 and upon complying with such other requirements specified
7 in this Act, shall be issued by the department a license to
8 conduct the business of a dealer, broker, or agent at the
9 place named in the application.

10 Sec. 4. No license shall be issued by the department to
11 a dealer or broker until the applicant has furnished proof
12 of financial responsibility. The proof of financial respon-
13 sibility shall be approved by the department. The proof may
14 be in the following forms:

15 1. A bond of a surety company authorized to do business
16 in the state of Iowa in the form prescribed by and to the
17 satisfaction of the department, conditioned for the payment
18 of a judgment against the applicant furnishing the bond because
19 of nonpayment of obligations in connection with the purchase
20 of animals.

21 The amount of bond for an established dealer or broker
22 shall not be less than the nearest multiple of five thousand
23 dollars above twice the average daily value of purchases of
24 livestock, handled by such applicant during the preceding
25 twelve months or such parts thereof as the applicant was
26 purchasing livestock. For the purpose of this computation,
27 two hundred sixty is deemed the number of business days in
28 a year.

29 If a new dealer or broker not previously covered by this
30 Act applies for a license, the amount of bond shall be based
31 on twice the estimated average daily value of purchases of
32 livestock.

33 At such time as the daily purchases of livestock by the
34 dealer or broker exceed twice the estimated average daily
35 value of purchases of livestock by more than five percent

1 of the amount of his bond, the dealer or broker shall adjust
2 the amount of the bond to cover livestock purchases.

3 Whenever the amount of the bond as calculated in this
4 subsection exceeds fifty thousand dollars, the amount of the
5 bond shall be fifty thousand dollars plus ten percent of the
6 average daily valuation in excess of fifty thousand dollars.
7 In no case shall the amount of bond be less than five thousand
8 dollars.

9 2. A deposit with the department of the required amount
10 in money or negotiable bonds of the United States or of the
11 state of Iowa or a political subdivision of the state of Iowa
12 of that par or face value, for the purpose of securing the
13 payment of a judgment against the applicant furnishing the
14 deposit because of nonpayment of obligations in connection
15 with the purchase of animals. The deposit shall be made under
16 a deposit agreement prescribed by the department. The amount
17 of the deposit shall be calculated in the exact manner as
18 the amount of a bond as provided in subsection one (1) of
19 this section. The deposit shall not be subject to attachment
20 for any other claim or levy of execution upon a judgment based
21 on any other claims.

22 Any person damaged by nonpayment of obligations or by any
23 misrepresentation or fraud on the part of a broker or dealer
24 may maintain an action against the broker or dealer and the
25 sureties on the bonds provided for in this section or for
26 the application of the deposit furnished the department.
27 The aggregate liability of the sureties for all such damage
28 shall not exceed the amount of bond. In the event that the
29 aggregate judgments on the bond or the deposit exceed the
30 total amount of such bond or deposit, the amount payable on
31 account of any judgment shall be in the same proportion to
32 the bond or deposit as the individual judgment bears to the
33 aggregate judgments.

34 Unless the person damaged files his claim with the dealer
35 or broker and the sureties and the department within ninety

1 days from the date of the alleged violation, or within ninety
2 days after the discovery of nonpayment of obligations, fraud,
3 or misrepresentation on the part of the person complained
4 against, the claimant shall be barred from maintaining an
5 action on the bond or for the application of the deposit.

6 Whenever the department determines that the business volume
7 of the applicant or licensee is such as to render the bond
8 or deposit inadequate, the amount of the bond or deposit shall
9 be, upon notice, adjusted. All bonds or deposit agreements
10 shall contain a provision requiring that at least thirty days'
11 prior notice in writing be given to the department by the
12 party terminating the bonds or deposit agreements in order
13 to effect termination.

14 The termination of a bond shall not release the parties
15 from any liability arising out of the facts or transactions
16 occurring prior to the termination date.

17 The termination of a deposit agreement shall neither release
18 the party furnishing the deposit from any liability arising
19 out of acts or transactions occurring prior to the termination
20 date, nor shall the department permit the withdrawal of the
21 deposit until after ninety days of the termination date, and
22 then only if no claims under the agreement have been filed
23 with the department. If any claims have been filed with the
24 department, the withdrawal of the deposit shall not be
25 permitted until the claims have been satisfied or released
26 and evidence of the satisfaction or release filed with the
27 department.

28 All moneys and securities deposited with the department
29 shall be handled in the following manner:

30 a. All securities deposited with the department shall
31 remain in its custody.

32 b. All moneys shall be delivered to the treasurer of state
33 and invested in the manner set forth in section four hundred
34 fifty-two point ten (452.10) of the Code, and he shall not
35 relinquish the moneys except upon the written orders of the

1 department.

2 The owner shall be entitled to receive all income from
3 moneys and securities so deposited and the department shall
4 issue a receipt for each deposit setting forth this fact.

5 3. In lieu of a bond or deposit, the applicant may file
6 an annual sworn financial statement certified by a certified
7 public accountant showing all assets and liabilities and
8 supporting data as the department may require. The state-
9 ment shall show the applicant's current net worth to be not
10 less than five times the amount of the bond or deposit
11 otherwise required by this section. If upon examination of
12 any financial statement the department considers that the
13 applicant has furnished insufficient proof of financial
14 responsibility, a written order may be issued directing the
15 applicant to provide the bond or deposit required by this
16 section. Failure to comply with an order shall be cause for
17 revocation or suspension of license.

18 Sec. 5. Any dealer or broker who has a bond authorized
19 by the United States department of agriculture under the
20 Packers and Stockyards Act of 1921 as amended, Title seven
21 (VII), sections one hundred eighty-one (181) through two
22 hundred thirty-one (231), inclusive, United States Code, shall
23 be exempt from the provisions of this Act.

24 Sec. 6. The provisions of this Act shall not apply to
25 any dealer or broker purchasing livestock for slaughter valued
26 at less than an average daily value of one thousand five
27 hundred dollars during the preceding twelve months or such
28 part thereof as the dealer or broker was purchasing livestock.

29 Sec. 7. Every dealer or broker shall during all reasonable
30 times permit an authorized representative of the department
31 to examine all records relating to his business necessary
32 in the enforcement of this Act.

33 Sec. 8. The department shall have the power and authority
34 to enter into reciprocal agreements with the authorized
35 representatives of other federal or state jurisdictions for

1 the exchange of information and audit reports on a cooperative
2 basis which may assist the department in the proper administra-
3 tion of this Act.

4 Sec. 9. Any person violating any provision of this Act
5 shall be punished by a fine of not less than five hundred
6 dollars nor more than two thousand five hundred dollars, or
7 imprisonment in the county jail for not more than six months,
8 or be punished by both such fine and imprisonment.

9 EXPLANATION

10 This bill gives sellers of livestock to Iowa meat packers
11 similar protection to that now provided under the Federal
12 Packers and Stockyards Act.

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- 1 Amend House File 391, page 6, by striking lines
2 24 through 28, and by renumbering the subsequent
3 sections.

Filed - *Withdrawn 4/12*
March 24, 1971

By MOFFITT of Appanoose
District 96
HUSAK of Tama
District 41

House
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- 1 Amend House File 391, page 6, by striking lines 24
2 through 28 and inserting the following:
3 "Sec. 6. The licensing provisions of this
4 Act shall not apply to any dealer or broker who
5 has a license issued by the department to conduct
6 a food establishment or locker plant and who pur-
7 chases livestock for slaughter valued at less than
8 an average daily value of one thousand five hun-
9 dred dollars during the preceding twelve months or
10 such part thereof as the dealer or broker was pur-
11 chasing livestock. Said licenses are made sub-
12 ject to this Act as to the regulatory and penal
13 provisions hereof. All other provisions of this
14 Act shall apply to said dealers or brokers."

Filed - *Adopted 4/12*
March 31, 1971

By MOFFITT of Appanoose
District 96
HUSAK of Tama
District 41

- 1 Amend House File 391 as follows:
2 Page 2, line 31, by striking the word "twenty-five"
3 and inserting in lieu thereof the word "fifty".
4 Page 2, line 32, by striking the word "ten" and
5 inserting in lieu thereof the word "twenty".

Filed - *Adopted 4/12*
April 5, 1971

COMMITTEE ON AGRICULTURE
Charles F. Strothman, Chairman

- 1 Amend House File 391 as follows:
2 Page 6, by striking lines 5 through 17, inclusive.

Filed - *Last 4/12, Reconsidered*
April 6, 1971 *and adopted 4/13*

By FISCHER of Grundy
District 35

EXPLANATION OF AMENDMENT

This amendment strikes the provision which allows an applicant for a license for a dealer or broker to file a financial statement in lieu of a surety bond or deposit of money or bonds.

- 1 Amend House File 391 as follows:
2 Page 2, line 31, by striking the word "twenty-five" and
3 inserting in lieu thereof the word "fifty".
4 Page 2, line 32, by striking the word "ten" and
5 inserting in lieu thereof the word "twenty".

Filed - *Withdrawn 4/12*
March 24, 1971

By COMMITTEE ON WAYS AND MEANS
DEN HERDER, Chairman

SENATE AMENDMENT TO HOUSE FILE 391

- 1 Amend House File 391 as passed by the House as follows:
2 1. Page 2, line 31, by striking the word "fifty" and insert-
3 ing in lieu thereof the words "twenty-five".
4 2. Page 2, line 32, by striking the word "twenty" and insert-
5 ing in lieu thereof the word "ten".
6 3. Page 4, line 4, by striking the word "fifty" and inserting
7 in lieu thereof the words "two hundred".
8 4. Page 4, line 5, by striking the word "fifty" and inserting
9 in lieu thereof the words "two hundred".
10 5. Page 4, line 6, by striking the word "fifty" and inserting
11 in lieu thereof the words "two hundred".
12 6. Page 6, by adding after line 4 the following new subsection:
13 "3. In lieu of a bond or deposit, the applicant may file
14 an annual sworn financial statement certified by a certified
15 public accountant showing all assets and liabilities. The
16 statement shall show the applicant's current net worth to be
17 not less than five times the amount of the bond or deposit
18 otherwise required by this section. If upon examination of any
19 financial statement the department considers that the applicant
20 has furnished insufficient proof of financial responsibility,
21 a written order may be issued directing the applicant to pro-
22 vide the bond or deposit required by this section. Failure to
23 comply with an order shall be cause for revocation or suspension
24 of license. It shall be unlawful for any officer or employee
25 of the state of Iowa to divulge or to make known in any manner
26 whatever not provided by law to any person the information
27 contained in any financial statement."
28 7. Page 6, line 5, by striking the word "authorized" and
29 inserting in lieu thereof the word "required".

Received from the Senate
February 2, 1972

House concurred 2/3/72

HOUSE FILE 391

- 1 Amend House File 391, page 6, line 5, by striking the
2 word "authorized" and inserting in lieu thereof the word
3 "required".

Filed and adopted
January 31, 1972

By SCHABEN

HOUSE FILE 391

- 1 Amend the Committee on Agriculture amendment, filed May
2 3, 1971 to House File 391 as follows:
3 1. Line 5, insert a period after the word "liabilities" and
4 strike the rest of the sentence; and on line 6 strike the
5 words "supporting data as the department may require."
6 2. After line 15 insert the following:
7 "It shall be unlawful for any officer or employee of the
8 state of Iowa to divulge or to make known in any manner whatever
9 not provided by law to any person the information contained in
10 any financial statement."

Filed and adopted
January 31, 1972

By WALSH and MESSERLY

Senate

HOUSE FILE 391
FISCAL NOTE
HOUSE

Date Prepared: January 27, 1972

Requested by: Senator Graham

Prepared in regard to H.F. 391 (As amended and passed by the House of Representatives) - An Act relating to the bonding of operators of slaughterhouses buying cattle, hogs, or sheep, and the bonding of agents, dealers, or brokers of such operators, and providing a penalty. Following is the fiscal effect in dollars of the legislative proposal as required by House Rule 48.

It is estimated that there are approximately 70 dealers or brokers who would need licenses. This would raise \$3,500 in revenue. It is also estimated that there may be as many as 700 agents who would need licenses which would raise \$14,000 in revenue. The total revenue from licenses is estimated to be \$17,500.

The Department of Agriculture estimates that it will cost approximately \$15,000 to administer this program. This figure includes salaries, travel, and office expense.

The Department of Agriculture also estimates that after the first of year when the initial licensing is completed, the cost to administer the program may decrease somewhat. Except for this, these estimates should remain about the same for each of the next five years.

Source: Department of Agriculture

Filed
January 31, 1972

By Gerry D. Rankin
Legislative Fiscal Director

- 1 Amend House File 391, page 6, by adding after line 4 the
- 2 following new subsection:
- 3 "3. In lieu of a bond or deposit, the applicant may file
- 4 an annual sworn financial statement certified by a certified
- 5 public accountant showing all assets and liabilities and
- 6 supporting data as the department may require. The statement
- 7 shall show the applicant's current net worth to be not less
- 8 than five times the amount of the bond or deposit otherwise
- 9 required by this section. If upon examination of any
- 10 financial statement the department considers that the applicant
- 11 has furnished insufficient proof of financial responsibility,
- 12 a written order may be issued directing the applicant to
- 13 provide the bond or deposit required by this section.
- 14 Failure to comply with an order shall be cause for revocation
- 15 or suspension of license."

Filed - adopted as amended 1/31/72
May 3, 1971

By COMMITTEE ON AGRICULTURE
STEPHENS, Chairman

HOUSE FILE 391

1 Amend House File 391 as follows:
2 Page 7, following line 8, by adding the following:
3 1. "Sec. ____ . The treasurer of state shall annually
4 transfer ten percent of all moneys remaining in the cattle
5 and veal calf fund after other remittances are made as
6 provided in section one hundred eighty-one point thirteen
7 (181.13) of the Code, to a special fund hereby created
8 within the state treasury, which fund shall be administered
9 by the executive committee of the Iowa beef cattle pro-
10 ducers association.
11 Following the end of each calendar year any person who
12 has not received full payment from a dealer, broker, or
13 agent because of the sale of livestock during the prev-
14 ious calendar year, may make application to the executive
15 committee of the Iowa beef cattle producers association
16 for payment of any loss sustained. Upon proof of such
17 nonpayment, the executive committee shall submit a
18 voucher to the treasurer of state authorizing payment
19 from the special fund created by this section to the
20 person sustaining the loss resulting from nonpayment by
21 a dealer, broker, or agent."
22 2. Page 1, line 3, by inserting before the word "and"
23 the words "providing a method of payment to livestock
24 producers suffering losses,"

Filed and withdrawn
January 31, 1972

By SHAFF

Senate

HOUSE FILE 391

1 Amend House File 391 as follows:
2 1. Page 2, line 31, by striking the word "fifty"
3 and inserting in lieu thereof the words "twenty-five".
4 2. Page 2, line 32, by striking the word "twenty"
5 and inserting in lieu thereof the word "ten".

Filed and adopted
January 31, 1972

By WALSH