

APR 4 1975

Place On Calendar

HOUSE FILE 625

By COMMITTEE ON AGRICULTURE

Passed House, Date 4-29-75 (p.1415) Passed Senate, Date 5-14-75 (1387)

Vote: Ayes 93 Nays 0 Vote: Ayes 40 Nays 1

Approved 6-16-75

*Motion to reconsider filed 4-30 (1458) Lost 5-2 (1513)*  
*Passed House for Senate amended in further amended 5-23-75* *Repassed Senate per House amendment 6-3-75 (1697)*  
88-2 **A BILL FOR** 48-1

1 An Act relating to persons engaged in the business of soliciting,  
2 purchasing, or receiving live animals for slaughter, and pro-  
3 viding penalties.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 Section 1. Section one hundred seventy-two A point one  
2 (172A.1), Code 1975, is amended by adding the following new  
3 subsection:

4 NEW SUBSECTION. "Secretary" means the secretary of agricul-  
5 ture or the secretary's designee.

6 Sec. 2. Section one hundred seventy-two A point one  
7 (172A.1), subsection three (3), Code 1975, is amended to read  
8 as follows:

9 3. "Dealer" or "broker" means any person ~~determined by~~  
10 ~~the department of agriculture to be,~~ other than an agent,  
11 who is engaged in this state in the business of slaughtering  
12 live animals, or receiving, or buying, or soliciting live  
13 animals for slaughter, the meat products of which are directly  
14 or indirectly to be offered for resale or for public  
15 consumption.

16 Sec. 3. Section one hundred seventy-two A point one  
17 (172A.1), subsection four (4), Code 1975, is amended to read  
18 as follows:

19 4. "Agent" means a person engaged in the ~~business of~~  
20 buying or soliciting in this state of livestock for slaughter  
21 exclusively on behalf of any a dealer or broker.

22 Sec. 4. Section one hundred seventy-two A point two  
23 (172A.2), Code 1975, is amended to read as follows:

24 172A.2 LICENSE REQUIRED. No person shall act as a dealer  
25 or broker without first being licensed. No ~~agent~~ person shall  
26 act for any dealer or broker as an agent unless such dealer  
27 or broker is licensed, has designated such agent to act in  
28 his behalf, and has notified the ~~department~~ secretary of the  
29 designation in his application for license or has given  
30 official notice in writing of the appointment of the agent  
31 and ~~requested the department to issue~~ the secretary has issued  
32 to the agent an agent's license. A dealer or broker shall  
33 be accountable and responsible for contracts made by an agent  
34 in the course of his employment. The license of an agent  
35 whose ~~services are~~ employment by the dealer or broker is

1 terminated ~~by or with the dealer or broker~~ shall be void on  
2 the date written notice of termination is received by the  
3 department secretary. The license of a dealer, broker, or  
4 agent, unless revoked, shall expire on the last day of June  
5 following the date of issue. The annual fee for the license  
6 of a dealer or broker is ~~twenty-five~~ fifty dollars. The  
7 annual fee for an agent's license is ten dollars.

8 No person may be issued a license if that person previously  
9 has had a license revoked, or previously was issued a license  
10 and the secretary suspended that license, unless the order  
11 of suspension or revocation is thereafter terminated by the  
12 secretary.

13 Sec. 5. Section one hundred seventy-two A point four  
14 (172A.4), Code 1975, is amended by striking the section and  
15 inserting in lieu thereof the following:

16 172A.4 PROOF OF FINANCIAL RESPONSIBILITY REQUIRED. No  
17 license shall be issued by the secretary to a dealer or broker  
18 until the applicant has furnished proof of financial  
19 responsibility as provided in this section. The proof may  
20 be in the following forms:

21 1. A bond of a surety company authorized to do business  
22 in the state of Iowa in the form prescribed by and to the  
23 satisfaction of the secretary, conditioned for the payment  
24 of a judgment against the applicant furnishing the bond because  
25 of nonpayment of obligations in connection with the purchase  
26 of animals.

27 a. The amount of bond for an established dealer or broker  
28 who does not maintain a business location in this state shall  
29 be not less than the nearest multiple of five thousand dollars  
30 above twice the average daily value of purchases of livestock  
31 originating in this state, handled by such applicant during  
32 the preceding twelve months or such parts thereof as the  
33 applicant was purchasing livestock. The bond of a person who  
34 does not maintain a business location in this state shall  
35 be conditioned for the payment only of those claims which

1 arise from purchases of livestock originating in this state.  
2 b. The amount of bond for an established dealer or broker  
3 who maintains one or more business locations in this state  
4 shall not be less than the nearest multiple of five thousand  
5 dollars above twice the average daily value of purchases of  
6 livestock originating in this state handled by the applicant  
7 during the preceding twelve months or such parts thereof as  
8 the applicant was purchasing livestock. The bond of a person  
9 who maintains one or more business locations in this state  
10 shall be conditioned for the payment only of those claims  
11 which arise from purchases of livestock originating in this  
12 state.

13 c. If a new dealer or broker not previously covered by  
14 this chapter applies for a license, the amount of bond shall  
15 be based on twice the estimated average daily value of  
16 purchases of livestock originating in this state.

17 d. For the purpose of computing average daily value, two  
18 hundred sixty is deemed the number of business days in a year.

19 e. Whenever the amount of the bond as calculated in this  
20 subsection exceeds four hundred thousand dollars, the amount  
21 of the bond shall be four hundred thousand dollars plus ten  
22 percent of twice the average daily valuation in excess of  
23 four hundred thousand dollars. In no case shall the amount  
24 of bond be less than five thousand dollars.

25 f. The licensee and surety of the bond shall be held and  
26 firmly bound unto the secretary as trustee for all persons  
27 who may be damaged because of nonpayment of obligations in  
28 connection with the purchase of animals originating in this  
29 state. Any person damaged because of such nonpayment may  
30 maintain suit in the person's own behalf to recover on the  
31 bond, even though not named as a party to the bond.

32 2. A bond equivalent may be filed in lieu of a bond.  
33 The bond equivalent shall be in the form of a trust agreement  
34 and the fund of the trust shall be in the form of fully  
35 negotiable obligations of the United States or certificates

1 of deposit insured by the Federal Deposit Insurance Corporation  
2 or the Federal Savings and Loan Insurance Corporation.

3 The trust agreement shall be in the form prescribed by  
4 the secretary and executed to the satisfaction of the  
5 secretary. The trustee of the trust agreement shall be an  
6 institution located in this state in which the funds are  
7 invested or deposited.

8 The trust agreement shall provide as beneficiary, the sec-  
9 retary for the benefit of those persons damaged because of  
10 nonpayment of obligations in connection with the purchase  
11 of animals originating in this state. The fund in trust shall  
12 be an amount calculated in the exact manner as provided in  
13 subsection one (1) of this section. The fund in trust shall  
14 not be subject to attachment for any other claim, or to levy  
15 of execution upon a judgment based on any other claim.

16 3. Any person damaged by nonpayment of obligations or  
17 by any misrepresentation or fraud on the part of a broker  
18 or dealer may maintain an action against the broker or dealer,  
19 and the sureties on the bonds or the trustee of a trust fund.  
20 The aggregate liability of the sureties or the trust for all  
21 such damage shall not exceed the amount of the bond or trust.  
22 In the event that the aggregate claims exceed the total amount  
23 of the bond or trust, the amount payable on account of any  
24 claim shall be in the same proportion to the amount of the  
25 bond or trust as the individual claim bears to the aggregate  
26 claims.

27 Unless the person damaged files claim with the dealer or  
28 broker, and with the sureties or trustee, and with the  
29 department within one hundred twenty days after the date of  
30 the transaction on which the claim is based, the claimant  
31 shall be barred from maintaining an action on the bond or  
32 trust and from receiving any proceeds from the bond or trust.

33 4. Whenever the secretary determines that the business  
34 volume of the applicant or licensee is such as to render the  
35 bond or trust inadequate, the amount of the bond or trust

1 shall be, upon notice, adjusted.

2 5. All bonds and trust agreements shall contain a provision  
3 requiring that at least thirty days' prior notice in writing  
4 be given to the secretary by the party terminating the bond  
5 or trust agreement as a condition precedent to termination.

6 Whenever a bond or a trust agreement is to be terminated  
7 by a cancellation by the surety or trustee, the secretary  
8 shall cause to be published notices of the proposed  
9 cancellation not less than ten days prior to the date the  
10 cancellation is effective. The notices shall be published  
11 as follows:

12 (1) In the Iowa Administrative Code.

13 (2) In a newspaper of general circulation in the county  
14 in which the licensee maintains a business location, or if  
15 the licensee maintains no business location in this state,  
16 then in the county where the licensee transacts a substantial  
17 part of the licensee's business.

18 (3) By general news release to all news media.

19 Failure by the secretary to cause the publication of notice as  
20 required by this paragraph shall not be deemed to prevent  
21 or delay the cancellation.

22 The termination of a bond or a trust agreement shall not  
23 release the parties from any liability arising out of the  
24 facts or transactions occurring prior to the termination date.

25 Trust funds shall not be withdrawn from trust by a licensee  
26 until the expiration of one hundred twenty days after the  
27 date of termination of the trust, and then only if no claims  
28 secured by the agreement have been filed with the secretary.

29 If any claims have been filed with the secretary, the  
30 withdrawal of funds by the licensee shall not be permitted  
31 until the claims have been satisfied or released and evidence  
32 of the satisfaction or release filed with the secretary.

33 6. A person who is not a resident of this state and who  
34 either maintains no business location in this state or  
35 maintains one or more business locations in this state, and

1 a person who is a resident of this state and who maintains  
2 more than one business location in this state, may submit  
3 a consolidated proof of financial responsibility. The  
4 consolidated proof of financial responsibility shall consist  
5 of a bond or a trust agreement meeting all of the requirements  
6 of this section, except that the calculation of the amount  
7 of the bond or the amount of the trust fund shall be based  
8 on the average daily value of all purchases of livestock  
9 originating in this state. A person who submits consolidated  
10 proof of financial responsibility shall maintain separate  
11 records for each business location, and shall maintain such  
12 other records respecting purchases of livestock as the  
13 secretary by rule shall prescribe.

14 Sec. 6. Section one hundred seventy-two A point five  
15 (172A.5), Code 1975, is amended to read as follows:

16 172A.5 BONDED PACKERS ~~EXEMPT~~ REGISTRATION. ~~Any~~ A dealer  
17 or broker who has a bond required by the United States  
18 department of agriculture under the Packers and Stockyards  
19 Act of 1921 as amended, Title VII, sections 181 through 231,  
20 United States Code, shall be exempt from the provisions of  
21 this chapter upon registration with the secretary. Registra-  
22 tion shall be effective upon filing with the secretary a  
23 certified copy of the bond filed with the United States de-  
24 partment of agriculture, and shall continue in effect until  
25 that bond is terminated.

26 Sec. 7. Section one hundred seventy-two A point six  
27 (172A.6), Code 1975, is amended to read as follows:

28 172A.6 LOW VOLUME DEALERS EXEMPT FROM LICENSE AND BOND.  
29 The ~~licensing~~ license and financial responsibility provisions  
30 of this chapter shall not apply to any ~~dealer-or-broker~~ person  
31 ~~who has a license issued by the department to conduct a feed~~  
32 ~~establishment-or-locker-plant~~ is licensed by the secretary  
33 as provided in chapters one hundred seventy (170), one hundred  
34 seventy-one (171), or one hundred seventy-two (172) of the  
35 Code, and who purchases livestock for slaughter valued at

1 less than an average daily value of ~~one~~ two thousand five  
2 hundred dollars during the preceding twelve months or such  
3 part thereof as the ~~dealer-or-broker~~ person was purchasing  
4 livestock. Said licensees are made subject to this chapter  
5 as to the regulatory and penal provisions hereof. All other  
6 provisions of this chapter shall apply to said dealers or  
7 brokers.

8 The provisions of this chapter shall not apply to any other  
9 person who purchases livestock for slaughter valued at less  
10 than an average daily value of two thousand five hundred  
11 dollars based upon the preceding twelve months or such part  
12 thereof as the person was purchasing livestock.

13 Sec. 8. Section one hundred seventy-two A point nine  
14 (172A.9), Code 1975, is amended by striking the section and  
15 inserting in lieu thereof the following:

16 172A.9 PAYMENT FOR LIVESTOCK.

17 1. Each dealer, or broker purchasing livestock, before  
18 the close of the next business day following either the  
19 purchase of livestock or the determination of the amount of  
20 the purchase price, whichever is later, shall transmit or  
21 deliver to the seller or the seller's duly authorized agent  
22 the full amount of the purchase price, unless otherwise  
23 expressly agreed in writing between the parties before the  
24 purchase of the livestock.

25 2. If payment to the seller is by check, the check shall  
26 be drawn on a bank located in this state.

27 3. Failure to comply with this section shall be a violation  
28 of this chapter.

29 Sec. 9. Chapter one hundred seventy-two A (172A), Code  
30 1975, is amended by adding the following new section:

31 172A.10 NEW SECTION. INJUNCTIONS--CRIMINAL PENALTIES.

32 If any person who is required by this chapter to be licensed  
33 fails to obtain the required license, or if any person who  
34 is required by this chapter to maintain proof of financial  
35 responsibility, or if any licensee fails to discontinue

1 engaging in licensed activities when that person's license  
2 has been suspended, such failure shall be deemed a nuisance  
3 and the secretary may bring an action on behalf of the state  
4 to enjoin such nuisance. Such actions may be heard on not  
5 less than five days notice to the person whose activities  
6 are sought to be enjoined. The failure to obtain a license  
7 when required, or the failure to maintain proof of financial  
8 responsibility shall constitute a violation of this chapter.

9 Any person convicted of violating any provision of this  
10 chapter shall be punished by a fine of not less than five  
11 hundred dollars nor more than two thousand five hundred  
12 dollars, or by imprisonment in the county jail for not more  
13 than six months, or by both fine and imprisonment.

14 Sec. 10. Chapter one hundred seventy-two A (172A), Code  
15 1975, is amended by adding the following new section:

16 172A.11 NEW SECTION. SUSPENSION OF LICENSE.

17 1. The secretary shall have the authority to suspend the  
18 license of any dealer or broker or agent if upon hearing it  
19 is found that the dealer or broker or agent has committed  
20 any of the following acts or omissions:

21 a. Failure to submit a larger bond amount or trust fund  
22 when ordered by the secretary.

23 b. Failure to pay for purchases of livestock in the manner  
24 required by section seven (7) of this Act.

25 An order of suspension issued by the secretary shall be  
26 effective for an indefinite period, unless and until the  
27 person establishes to the satisfaction of the secretary that  
28 the person has taken reasonable precautions to prevent a  
29 recurrence of the act or omission in the future.

30 2. The secretary shall have the authority temporarily  
31 to suspend without hearing the license of any licensee in  
32 any of the following circumstances:

33 a. The licensee fails to maintain proof of financial  
34 responsibility, or the surety on the licensee's bond loses  
35 its authorization to issue bonds in this state, or the trustee

1 of a trust fund loses its authorization to engage in the  
2 business of a fiduciary.

3 b. Claims are filed with the secretary against the bond  
4 or trust in an aggregate amount equal to ten percent or more  
5 of the amount of the bond.

6 A temporary suspension shall be effective on the date of  
7 issuance of the order of suspension, and until a revocation  
8 hearing has been held and the secretary either has entered  
9 an order of revocation of the license, or has terminated the  
10 order of suspension.

11 Sec. 11. Chapter one hundred seventy-two A (172A), Code  
12 1975, is amended by adding the following new section:

13 172A.12 NEW SECTION. REVOCATION OF LICENSE.

14 1. The secretary shall have the authority to revoke the  
15 license of a dealer or broker or agent upon notice and hearing  
16 if any of the following conditions exist:

17 a. Grounds exist for the temporary suspension of the  
18 license without hearing, and it is established that the person  
19 is or will be unable to meet obligations to producers of  
20 livestock when due.

21 b. The person has refused access to the secretary to the  
22 books and records of the person as required by this chapter.

23 c. Any other conditions exist which in the opinion of  
24 the secretary reasonably establish that it would be financially  
25 detrimental to livestock producers of this state to permit  
26 the person to engage in licensed activities in this state.

27 An order of revocation shall be effective upon the issuance  
28 of the order of revocation, and until the order is rescinded  
29 by the secretary, or until the decision of the secretary is  
30 reversed by a final order of a court of this state.

31 Sec. 12. Chapter one hundred seventy-two A (172A), Code  
32 1975, is amended by adding the following new section:

33 172A.13 NEW SECTION. RULES. The secretary is authorized  
34 to adopt rules pursuant to chapter seventeen A (17A) of the  
35 Code which are reasonable and necessary for the enforcement

1 of this Act.

2 Sec. 13. This Act shall take effect on July 1, 1975.

3 A person having a license in effect on June 30, 1975, shall  
4 have until September 1, 1975 in which to submit application  
5 for license and proof of financial responsibility as required  
6 by this Act. A license in effect on June 30, 1975, shall  
7 continue to be in effect until September 1, 1975, unless  
8 sooner revoked, suspended or surrendered by the licensee,  
9 and a licensee shall comply with all of the provisions of  
10 this Act, except as provided in this section.

11 EXPLANATION

12 This bill amends chapter 172A of the Code relating to the  
13 licensing and bonding of persons engaging in the business  
14 of buying or receiving livestock for slaughter. The following  
15 changes to existing law are made:

16 1. The secretary of agriculture is specifically named  
17 as the licensing authority, rather than the department. The  
18 law is clarified to establish that the secretary does not  
19 need to give notice before a person is in violation of the  
20 chapter for failure to obtain a license.

21 2. The definition of "dealer/broker" is rewritten to cover  
22 persons "soliciting" livestock for slaughter in this state,  
23 and to exempt from the chapter persons buying, receiving or  
24 soliciting livestock for slaughter where the meat products  
25 are not to be offered for resale or for public consumption.

26 3. The definition of agent is modified so that a person  
27 can be licensed as an agent only if the person buys exclusively  
28 on behalf of a dealer or broker.

29 4. The license fee for a dealer or broker is increased  
30 from \$25 to \$50.

31 5. No person may be issued a license when the person  
32 previously has had a license revoked, or when the person has  
33 a current license under suspension.

34 6. Proof of financial responsibility is substantially  
35 rewritten as follows:

1 a. The maximum required amount of financial responsibility  
2 is increased from the current \$200,000 plus 10% of twice  
3 the average daily purchases to \$400,000 plus 10%. Persons  
4 having twice average daily purchases of \$400,000 or less  
5 submit bond equal to twice the average daily purchases.  
6 Persons having larger volume submit bond equal to \$400,000  
7 plus 10% of the calculated volume which is in excess of  
8 \$400,000.

9 A licensee is permitted to consolidate all purchases of  
10 livestock originating in Iowa for the purposes of determining  
11 bond amount and of submitting a single bond or trust in lieu  
12 of several.

13 b. The current cash or securities deposit alternative  
14 to a surety bond is modified to require that a licensee  
15 establish a trust fund with a bank as trustee. A trust  
16 agreement is filed with the secretary for the benefit of  
17 persons damaged by nonpayment. A trust fund may be composed  
18 of negotiable obligations of the United States or federally  
19 insured certificates of deposit.

20 c. The current provision allowing the submission of a  
21 financial statement in lieu of security is repealed.

22 d. The beneficiaries of the financial responsibility are  
23 changed so that only livestock originating in Iowa are covered  
24 by the bond or trust agreement.

25 e. The time for filing all claims against a bond or trust,  
26 including fraud, is fixed at 120 days from the date of the  
27 transaction.

28 f. When a surety or trustee desires to cancel a bond,  
29 the secretary shall publish notice of cancellation in the  
30 Iowa Administrative Code, in a local newspaper, and by general  
31 news release to all media.

32 7. Federally bonded dealers or brokers continue to be  
33 exempt from the chapter but must register with the secretary  
34 to obtain this exemption: the low volume dealer/broker  
35 exception is modified to expressly exclude from the licensing

1 and bonding requirements those persons who are licensed under  
2 chapters 170, 171, or 172, and who have an average daily  
3 volume below \$2,500, and to exempt from the chapter all other  
4 persons having an average daily value below \$2,500.

5 8. Licensees are required to pay for purchases not later  
6 than the close of the next business day following either a  
7 purchase, or the determination of price, whichever is later.  
8 If payment is by check, the check must be drawn on a bank  
9 located in Iowa.

10 9. Authority is given to the secretary to suspend licenses  
11 without hearing for certain causes, to suspend licenses after  
12 hearing for other causes, and to revoke licenses after hearing  
13 for cause. The secretary also is empowered to obtain  
14 injunctive relief for specified violations.

15 10. Existing criminal penalties are maintained.

16

17

18

19

FISCAL NOTE  
HOUSE FILE 625

Date Prepared April 11, 1975

Requested by House Committee on Agriculture  
Prepared in regard to H.F. 625, An Act relating to persons engaged  
in the business of soliciting, purchasing, or receiving live animals  
for slaughter, and providing penalties. Following is the fiscal  
effect in dollars of the legislative proposal as required by Joint  
Ruel 16:

The Department of Agriculture is currently requesting in the  
department's budget request for 1976-77, approximately \$24,000  
for a field audit unit to audit several areas where the depart-  
ment has regulatory responsibility.

Source: Department of Agriculture

FILED  
APRIL 16, 1975

GERRY D. RANKIN  
Legislative Fiscal Director

S-3760

- 1 Amend House File 625, as amended and passed by
- 2 the House, as follows:
- 3 1. Page 2, line 30, by striking the word "twice".
- 4 2. Page 3, line 5, by striking the word "twice".
- 5 3. Page 3, line 15, by striking the word "twice".

S-3760 FILED - *Adopted 5/13 (1359)* BY ROGER J. SHAFF  
MAY 7, 1975 WILLARD R. HANSEN  
FRED W. NOLTING  
WARREN E. CURTIS  
C. JOSEPH COLEMAN

HOUSE FILE 625

S-3761

- 1 Amend House File 625, as amended and passed
- 2 by the House, as follows:
- 3 1. Page 7, line 21c, by inserting after the A
- 4 word "price" the words "when expressly requested
- 5 by the seller".
- 6 2. Page 7, line 21f, by striking the words
- 7 "this state" and inserting in lieu thereof the B
- 8 words "Iowa or in any state bordering on
- 9 Iowa".

S-3761 FILED *A. Withdrawn 5/13 (1361)* BY ROGER J. SHAFF  
MAY 7, 1975 *B- " 5/14 (1385)* KENNETH D. SCOTT  
C. JOSEPH COLEMAN  
WARREN E. CURTIS

HOUSE FILE 625

S-3782

- 1 Amend House File 625 as amended and passed by the
- 2 House, page 7, by striking in line 21a the words ", or,
- 3 if the livestock" and by striking all of lines 21b and
- 4 21c and inserting in lieu thereof the following: ". If
- 5 livestock is bought on a yield or grade and yield basis,
- 6 a dealer or broker shall upon the express request of the
- 7 seller, transmit or deliver to the seller or the seller's
- 8 duly authorized agent before the close of the next
- 9 business day following such purchase or delivery, which-
- 10 ever is later, up to eighty per cent of the estimated
- 11 purchase price, and pay the remaining balance on the
- 12 next business day following the determination of the
- 13 purchase price."

S-3782 FILED - *Adopted 5/14 (1384)* BY KENNETH D. SCOTT  
MAY 9, 1975 *as amended by 3802* KARL NOLIN

H-3679

- 1 Amend the Junker, Howell amendment H-3491 to
- 2 House File 625 as follows:
- 3 Page 7, line 19, by striking the word "to" and
- 4 inserting in lieu thereof the word "for".

H-3679 FILED, ADOPTED  
BY UNANIMOUS CONSENT (1412)  
APRIL 29, 1975

BY JUNKER of Woodbury

House File 625

H-3692

- 1 Amend the Committee on Agriculture amendment
- 2 H-3466 to House File 625 as follows:
- 3 By striking from line 6 the word "may" and
- 4 inserting in lieu thereof the word "shall".

H-3692 FILED, ADOPTED (1414)  
APRIL 29, 1975

BY SCHEELHAASE of Woodbury  
HOWELL of Floyd

S-3755

- 1 Amend House File 625 as amended and passed by the
- 2 House, page 7, by striking lines 17 through 21C and
- 3 inserting in lieu thereof the following:
- 4 "1. If livestock is purchased on a basis other than
- 5 yield or grade and yield, a dealer or broker shall
- 6 transmit or deliver to the seller or the seller's
- 7 duly authorized agent the full amount of the purchase
- 8 price before the close of the next business day
- 9 following such purchase. If livestock is bought on
- 10 a yield or grade and yield basis, a dealer or broker
- 11 shall transmit or deliver to the seller or the seller's
- 12 duly authorized agent before the close of the next
- 13 business day following such purchase at least eighty
- 14 per cent of the estimated purchase price, and pay the
- 15 balance on the next business day following the
- 16 determination of the purchase price. Partial payments
- 17 made by a dealer or broker when purchasing livestock on
- 18 a yield or grade and yield basis shall be recoverable
- 19 from the seller in cases where animals are not accepted
- 20 for slaughter by federal or state meat inspectors."

S-3755 FILED - *Last 5/13 (1360)*  
MAY 7, 1975

BY WARREN E. CURTIS  
PHILIP B. HILL

S-3758

- 1 Amend House File 625 as amended and passed by the
- 2 House, page 7, line 21e, by inserting after the word
- 3 "funds" the words "or if any of the debt of the dealer
- 4 or broker is currently rated "A" or higher by Moody's
- 5 Investors Service, Inc., payment may be made by bank
- 6 draft".

S-3758 FILED - *Last 5/14 (1385)*  
MAY 7, 1975

BY ELIZABETH SHAW

S-3796

1 Amend House File 625, as amended and passed by  
2 the House, page 10, by inserting after line 1 the  
3 following:

4 "Sec. \_\_\_\_ Chapter one hundred seventy-two A  
5 (172A), Code 1975, is amended by adding the follow-  
6 ing new section:

7 172A.14 NEW SECTION. LIVESTOCK LIEN.

8 1. Any person who sells livestock for slaughter  
9 shall have a lien on the livestock, its carcasses,  
10 all products therefrom, and all proceeds thereof,  
11 to secure payment of the sale price.

12 2. The lien created by subsection one (1) of  
13 this section attaches and is perfected upon delivery  
14 of the livestock to the purchaser, and the lien shall  
15 continue in the livestock, its carcasses, all  
16 products therefrom, and all proceeds thereof, with-  
17 out regard to possession thereof by the seller and  
18 without further action or perfection on the part of  
19 the seller.

20 3. If the livestock or its carcasses or the  
21 products therefrom are commingled with other live-  
22 stock, carcasses, or products such that identity  
23 is lost, then the lien created by subsection one  
24 (1) of this section shall extend to the same effect  
25 as if originally perfected in all the animals,  
26 carcasses, and products with which the livestock,  
27 carcasses or products have become commingled. All  
28 liens extended by this subsection to attach to  
29 commingled livestock, carcasses, and products shall  
30 be on a parity with one another. A lien which has  
31 been extended by this subsection, shall not be  
32 enforceable as against either a purchaser without  
33 actual knowledge of the lien purchasing one or  
34 more of the carcasses or products in the ordinary  
35 course of trade or business from the person who  
36 commingled the carcasses or products, or a subsequent  
37 transferee from that purchaser, but the lien shall  
38 extend to the proceeds of that sale.

39 4. The lien provided for in this section shall  
40 have priority over any other lien or perfected  
41 security interest in the livestock, its carcasses,  
42 all products therefrom, and proceeds thereof."

S-3796 FILED - *Adopted 5/14 (1381)* BY ROGER J. SHAFF  
MAY 13, 1975 KENNETH D. SCOTT  
CALVIN O. HULTMAN

S-3797

1 Amend House File 625, as amended and passed by  
2 the House, page 7, line 21f, by inserting after  
3 the word "state" the words "or on a bank located  
4 in an adjacent state and in the nearest city to  
5 Iowa in which a check processing center of a  
6 federal reserve bank district is located".

S-3797 FILED - *Adopted 5/14 (1385)* BY ROGER J. SHAFF  
MAY 13, 1975

S-3798

1 Amend the Shaw amendment, S-3758 to House  
2 File 625, line 4, by striking "A" and inserting in  
3 lieu thereof "A, P 2".

S-3798 FILED - *Adopted 5/14 (1384)* BY PHILIP B. HILL  
MAY 13, 1975

HOUSE FILE 625

S-3799

1 Amend H.F. 625 as amended and passed by the House,  
2 page 7, lines 21e and 21f by striking the sentence "If  
3 payment to the seller is by check, the check shall be  
4 drawn on a bank located in this state."

S-3799 FILED - *Adopted 5/14 (1385)* BY JAMES M. REDMOND  
MAY 13, 1975

S-3800

1 Amend House File 625, as amended and passed  
2 by the House, as follows:  
3 1. Page 1, line 28, by striking the word "his"  
4 and inserting in lieu thereof the words "his the  
5 dealer's or broker's".  
6 2. Page 1, line 29, by striking the word "his"  
7 and inserting in lieu thereof the words "his the  
8 dealer's or broker's".  
9 3. Page 1, line 34, by striking the word "his"  
10 and inserting in lieu thereof the words "his the  
11 agent's".  
12 4. Page 3, line 4, by striking the words "not  
13 be" and inserting in lieu thereof the words "be  
14 not".

S-3800 FILED - *Adopted 5/14 (1381)* BY ROGER J. SHAFF  
MAY 13, 1975

HOUSE AMENDMENT TO SENATE AMENDMENT  
TO HOUSE FILE 625

S-3963

1 Amend the Senate amendment H-3881, to House File  
2 625 as passed by the House, as follows:  
3 1. Page 1, by striking all of line 12.  
4 2. Page 1, by striking all of line 16.  
5 3. Page 1, by striking all of line 17.  
6 4. Page 1, by striking all of lines 36 through  
7 50.  
8 5. Page 2, by striking all of lines 1 through  
9 26.

S-3963 FILED  
MAY 28, 1975

RECEIVED FROM THE HOUSE  
*Senate concurred 6/3 (1697)*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

out regard to possession thereof by the seller and without further action or perfection on the part of the seller.

3. If the livestock or its carcasses or the products therefrom are commingled with other livestock, carcasses, or products such that identity is lost, then the lien created by subsection one (1) of this section shall extend to the same effect as if originally perfected in all the animals, carcasses, and products with which the livestock, carcasses or products have become commingled. All liens extended by this subsection to attach to commingled livestock, carcasses, and products shall be on a parity with one another. A lien which has been extended by this subsection, shall not be enforceable as against either a purchaser without actual knowledge of the lien purchasing one or more of the carcasses or products in the ordinary course of trade or business from the person who commingled the carcasses or products, or a subsequent transferee from that purchaser, but the lien shall extend to the proceeds of that sale.

4. The lien provided for in this section shall have priority over any other lien or perfected security interest in the livestock, its carcasses, all products therefrom, and proceeds thereof."

H-3881 FILED, RECEIVED FROM THE SENATE  
MAY 19, 1975

*House concurred as amended by 3936 5/23 (1975)*

H-3936

1  
2  
3  
4  
5  
6  
7  
8  
9

Amend the Senate amendment H-3881, to House File 625 as passed by the House, as Follows:  
1. Page 1, by striking all of line 12.  
2. Page 1, by striking all of line 16.  
3. Page 1, by striking all of line 17.  
4. Page 1, by striking all of lines 36 through 50.  
5. Page 2, by striking all of lines 1 through 26.

H-3936 FILED - *Adopted 5/23*  
MAY 22, 1975

BY MILLER of Cerro Gordo  
HUTCHINS of Guthrie  
KOOGLER of Mahaska  
PELLETT of Cass  
DANKER of Pottawattamie  
HUSAK of Tama  
O'HALLORAN of Black Hawk  
WULFF of Black Hawk  
BRANDT of Black Hawk  
MILLER of Calhoun

H-3881

1 Amend House File 625, as amended and passed  
2 by the House, as follows:

3 1. Page 1, line 28, by striking the word "his"  
4 and inserting in lieu thereof the words "his the  
5 dealer's or broker's".

6 2. Page 1, line 29, by striking the word "his"  
7 and inserting in lieu thereof the words "his the  
8 dealer's or broker's".

9 3. Page 1, line 34, by striking the word "his"  
10 and inserting in lieu thereof the words "his the  
11 agent's".

12 4. Page 2, line 30, by striking the word "twice".

13 5. Page 3, line 4, by striking the words "not  
14 be" and inserting in lieu thereof the words "be  
15 not".

16 6. Page 3, line 5, by striking the word "twice".

17 7. Page 3, line 15, by striking the word "twice".

18 8. Page 7, by striking in line 21a the words  
19 ", or, if the livestock" and by striking all of lines  
20 21b and 21c and inserting in lieu thereof the follow-  
21 ing: ". If livestock is bought on a yield or grade  
22 and yield basis, a dealer or broker shall upon the  
23 express request in writing of the seller, transmit  
24 or deliver to the seller or the seller's duly author-  
25 ized agent before the close of the next business  
26 day following such purchase or delivery, whichever  
27 is later, up to eighty per cent of the estimated  
28 purchase price, and pay the remaining balance on the  
29 next business day following the determination of  
30 the purchase price."

31 9. Page 7, line 21f, by inserting after the word  
32 "state" the words "or on a bank located in an  
33 adjacent state and in the nearest city to Iowa  
34 in which a check processing center of a federal  
35 reserve bank district is located".

36 10. Page 10, by inserting after line 1 the  
37 following:

38 "Sec. \_\_\_\_ Chapter one hundred seventy-two A  
39 (172A), Code 1975, is amended by adding the follow-  
40 ing new section:

41 172A.14 NEW SECTION. LIVESTOCK LIEN.

42 1. Any person who sells livestock for slaughter  
43 shall have a lien on the livestock, its carcasses,  
44 all products therefrom, and all proceeds thereof,  
45 to secure payment of the sale price.

46 2. The lien created by subsection one (1) of  
47 this section attaches and is perfected upon delivery  
48 of the livestock to the purchaser, and the lien shall  
49 continue in the livestock, its carcasses, all  
50 products therefrom, and all proceeds thereof, with-

H-3674

- 1 Amend the Committee amendment H-3460 to House
- 2 File 625, lines 38 through 40, by striking the
- 3 following: "However, such an agreement shall not
- 4 be a condition of sale unless expressly requested
- 5 by the seller."

H-3674 FILED, LOST (1414)  
APRIL 29, 1975

BY CRABB of Crawford

H-3675

- 1 Amend House File 625 as follows:
- 2 Page 3, by inserting after line 31 the following
- 3 new lettered paragraph:
- 4 "g. For purposes of subsection one (1) of this
- 5 section, "purchases of livestock originating in this
- 6 state" shall not include purchases by dealers or
- 7 brokers from their subsidiaries."

H-3675 FILED, ADOPTED (1415)  
APRIL 29, 1975

BY SCHEELHAASE of Woodbury  
HOWELL of Floyd

H-3676

- 1 Amend the Committee on Agriculture amendment
- 2 H-3460, to House File 625, as follows:
- 3 By inserting after the word "state" in line 26
- 4 the words "or a state bordering Iowa".

H-3676 FILED. LOST (1414)  
APRIL 29, 1975

BY STROMER of Hancock  
MIDDLETON of Black Hawk

H-3677

- 1 Amend House File 625 as follows:
- 2 Page 8, by striking from line 24 the following:
- 3 "seven (7)" and inserting in lieu thereof the
- 4 following: "eight (8)".

H-3677 FILED, ADOPTED  
BY UNANIMOUS CONSENT (1413)  
APRIL 29, 1975

BY MILLER of Cerro Gordo

H-3460

- 1 Amend House File 625 as follows:
- 2 1. Page 3, by striking lines 19 through 24 and
- 3 inserting in lieu thereof the following:
- 4 "e. Whenever a dealer or broker's weekly
- 5 purchases exceed one hundred fifty percent of his
- 6 average weekly volume, the department may require
- 7 additional bond in an amount determined by the de-
- 8 partment." a
- 9 2. Page 4, line 29, by striking the words "one
- 10 hundred twenty" and inserting in lieu thereof the
- 11 word "ninety".
- 12 3. Page 5, line 26, by striking the words "one
- 13 hundred twenty" and inserting in lieu thereof the
- 14 word "ninety".
- 15 4. Page 7, by striking lines 22 through 24 and
- 16 inserting in lieu thereof the following:
- 17 "the full amount of the purchase price, or, if B
- 18 the livestock is bought on a yield or a grade and
- 19 yield basis, at least eighty percent of the esti-
- 20 mated purchase price."
- 21 5. Page 7, by striking lines 25 and 26 and in-
- 22 sserting in lieu thereof the following:
- 23 "2. Payment to the seller shall be made by
- 24 cash, check, or wire transfer of funds. If pay-
- 25 ment to the seller is by check, the check shall a
- 26 be drawn on a bank located in this state. For
- 27 the purpose of this subsection, "wire transfer"
- 28 means any telephonic, telegraphic, electronic, or
- 29 similar communication between the bank of the
- 30 purchaser and the bank of the seller which re-
- 31 sults in the transfer of funds or credits of the
- 32 purchaser to an account of the seller."
- 33 6. Page 7, by inserting after line 26 the fol-
- 34 lowing:
- 35 "3. Provisions of this section may be modified
- 36 by an agreement signed by both the buyer and the
- 37 seller or their duly authorized agents at the time
- 38 of the sale. However, such an agreement shall not
- 39 be a condition of sale unless expressly requested
- 40 by the seller."
- 41 7. Page 7, line 27, by striking the numeral "3"
- 42 and inserting in lieu thereof the numeral "4".

H-3460 FILED *a, as amended by 3692* BY COMMITTEE ON AGRICULTURE  
 APRIL 4, 1975 *adopted 4/29 (1414)* HUSAK of Tama, Chairman  
*B - adopted 4/29 (1415)*

1 for payments to sellers of livestock.

2 5. Every licensee shall keep those accounts and  
3 records specified by rule of the department as will  
4 at all times disclose the handling of the funds in  
5 the custodial account.

6 6. The department may prescribe by rule the  
7 accounting procedures to be used in determining net  
8 proceeds pursuant to subsection three (3) of this  
9 section.

10 7. Failure to comply with this section shall  
11 constitute grounds for revocation of a license.

12 NEW SECTION. 172A.13 REVOCATION OF LICENSE.

13 The license of a dealer, broker, or agent shall be  
14 revocable by the department for any knowing failure  
15 by the person to comply with a provision of this  
16 chapter. If the person has been issued more than  
17 one license, grounds for revocation of a single license  
18 shall constitute grounds for revocation of all licenses  
19 issued to that person.

20 NEW SECTION. 172A.14 CLASS ACTIONS BY DEPARTMENT.

21 The department may commence and maintain a class  
22 action against a licensee and any surety of a licensee  
23 on behalf of all claimants protected by the financial  
24 responsibility required by this chapter. The  
25 department shall receive and hold in trust any judgment  
26 rendered for the benefit of those claimants. In the  
27 event a class action is brought by the department,  
28 costs and expenses incurred by the department shall  
29 be paid by the executive council as provided in section  
30 nineteen point ten (19.10) of the Code.

31 Sec. 7. This Act, being deemed of immediate  
32 importance, shall take effect and be in force from  
33 and after its publication in The Sioux City Journal,  
34 a newspaper published in Sioux City, Iowa, and in  
35 the Quad-City Times, a newspaper published in  
36 Davenport, Iowa."

H-3491 FILED - *Lost 4/29(1413)*  
APRIL 7, 1975

BY JUNKER of Woodbury  
HOWELL of Floyd

---

House File 625

H-3555

- 1 Amend House File 625 as follows:  
2 1. Page 6, line 20, by inserting the word  
3 "bonding" after the word "the".

H-3555 FILED - *Adopted 4/29(1415)*  
APRIL 14, 1975

BY MILLER of Cerro Gordo

1 certified or cashier's check delivered or mailed with  
2 postage prepaid to the seller within the following  
3 applicable time period:

4 1. If the livestock is purchased pursuant to a  
5 method of evaluation whereby the actual value of the  
6 livestock is not determinable prior to slaughter,  
7 the dealer or broker shall pay the seller not later  
8 than seventy-two hours after the dealer or broker  
9 acquires rights in the livestock, eighty percent of  
10 an estimate of the total value of the livestock given  
11 in good faith. Any balance of the purchase price  
12 shall be paid not later than the seventh calendar  
13 day after the date of purchase.

14 2. Pursuant to all other methods of purchase,  
15 the dealer or broker shall pay the seller in full  
16 not later than seventy-two hours after the dealer  
17 or broker acquires rights in the livestock.

18 NEW SECTION. 172A.12 CUSTODIAL ACCOUNTS.

19 1. Each payment made by a livestock buyer to a  
20 licensee is a trust fund until the licensee's custodial  
21 account required by subsection two (2) of this section  
22 has been paid in full in connection with the purchase.  
23 Funds deposited in custodial accounts are also trust  
24 funds.

25 2. Every licensee shall establish and maintain  
26 a separate bank account designated as "Custodial  
27 Account for Seller's Proceeds", or by some similar  
28 identifying designation, under terms and conditions  
29 with the bank where established, to disclose that  
30 the depositor is acting as a fiduciary with respect  
31 thereto and that the funds in the account are trust  
32 funds.

33 3. Before the close of the next banking business  
34 day after proceeds are received by a licensee from  
35 the sale of livestock or livestock products the  
36 licensee shall deposit the net proceeds in the  
37 custodial account. On or before the third banking  
38 business day after each purchase of livestock by a  
39 licensee the licensee shall deposit or have on deposit  
40 in the custodial account an amount equal to the amount  
41 immediately payable to the person from whom the  
42 livestock were purchased whether or not proceeds  
43 from sales have been collected or received by the  
44 licensee. In the case of a partial payment permitted  
45 under subsection one (1) of section one hundred  
46 seventy-two A point eleven (172A.11) of this Act,  
47 any unpaid balance shall be deposited in the custodial  
48 account not later than the fifth banking business  
49 day after the purchase.

50 4. The custodial account shall be drawn on only

1 alleged act or transaction resulting in the loss,  
2 or within ninety days after the discovery of fraud  
3 or misrepresentation on the part of the person  
4 complained against: However, a claim alleging fraud  
5 or misrepresentation shall be barred unless notice  
6 of the claim is given to the department not later  
7 than one year following the date of the transaction  
8 in connection with which the fraud or misrepresentation  
9 is alleged to have been committed. Upon receipt of  
10 a written notice of a claim, the department shall  
11 mail a written notice thereof, by certified mail,  
12 to the dealer or broker against whom the claim is  
13 asserted, and to the surety on the bond, if any.  
14 The department may give notice of more than one claim  
15 in a single written notice, and the failure of a  
16 dealer, broker or surety to receive notice from the  
17 department shall not constitute a bar or defense to  
18 any claim.

19 Sec. 5. Section one hundred seventy-two A point  
20 seven (172A.7) Code 1975, is amended to read as  
21 follows:

22 172A.7 ~~ACCESS-TO-RECORDS:--~~Every RECORDS OF  
23 LICENSEES.

24 1. A dealer or broker shall during all reasonable  
25 times permit an authorized representative of the  
26 department to examine all records relating to his  
27 business necessary in the enforcement of this chapter.

28 2. A dealer or broker shall submit to the  
29 department not later than the fifteenth calendar day  
30 of each month, records of the licensed activities  
31 of that dealer or broker in this state for the  
32 preceding month. The department shall prescribe by  
33 rule the form and content of information to be  
34 submitted pursuant to this subsection.

35 Sec. 6. Chapter one hundred seventy-two A (172A),  
36 Code 1975, is amended by adding the following new  
37 sections:

38 NEW SECTION. 172A.10 ABATEMENT. If an unlicensed  
39 dealer or broker engages in activities for which a  
40 license is required by this chapter, or if a dealer  
41 or broker fails to maintain proof of financial  
42 responsibility, a continuation of activities for which  
43 the license is required shall constitute a nuisance  
44 and the attorney general, in the name and on behalf  
45 of the department, may bring an action to abate that  
46 nuisance. The action may be heard upon not less than  
47 five days notice to the defendant dealer or broker.

48 NEW SECTION. 172A.11 METHOD OF PAYMENT. No  
49 dealer or broker shall cause the purchase of any  
50 livestock except upon payment to the seller by

1       b. The termination of a deposit agreement shall  
2 not release the party furnishing the deposit from  
3 any liability arising out of acts or transactions  
4 occurring prior to the termination date. The  
5 department shall not release a deposit until the  
6 expiration of ninety days after the termination date,  
7 and then only if no claims secured by the agreement  
8 have been filed with the department. If any claim  
9 has been filed with the department, the deposit shall  
10 not be released except upon an order of the district  
11 court.

12       c. A deposit of money or qualified bonds may be  
13 reduced in amount only as provided in this paragraph.  
14 If the deposit bond exceeds the amount required to  
15 be maintained, and the deposit agreement provides  
16 for a reduction, a deposit may be reduced to an amount  
17 not less than the required minimum amount. No  
18 reduction may be made except upon the expiration of  
19 ninety days after the existing bond amount was  
20 deposited.

21       d. All moneys and securities deposited with the  
22 department shall be handled in the following manner:

23       (1) All securities deposited with the department  
24 shall remain in its custody.

25       (2) All moneys shall be delivered to the treasurer  
26 of state and invested in the manner set forth in  
27 section four hundred fifty-two point ten (452.10)  
28 of the Code, and the treasurer shall not relinquish  
29 the moneys except upon the written order of the  
30 department.

31       (3) The owner shall be entitled to receive all  
32 income from moneys and securities so deposited and  
33 the department shall issue a receipt for each deposit  
34 setting forth this fact.

35       4. Any person damaged either by nonpayment of  
36 obligations or by any misrepresentation or fraud on  
37 the part of a broker or dealer may maintain an action  
38 against the broker or dealer and the surety on the  
39 bond provided for in this section or for the  
40 application of the deposit in the custody of the  
41 department. In the event that the aggregate judgments  
42 on the bond or the deposit exceed the total amount  
43 of the bond or deposit, the amount payable on account  
44 of any judgment shall be in the same proportion to  
45 the bond or deposit as the individual judgment bears  
46 to the aggregate judgments.

47       5. An action by a claimant on a surety bond or  
48 on a deposit bond shall be barred unless the person  
49 damaged files a written notice of the claim with the  
50 department within ninety days from the date of the

1 and principal not less than ten days prior to the  
2 proposed termination date. The department shall  
3 immediately notify the dealer or broker to submit  
4 other proof of financial responsibility as required  
5 by this section. In the event the dealer or broker  
6 has not complied within five days prior to the date  
7 of the termination of the bond the department shall  
8 cause to be published a notice of intent to cancel  
9 the broker's or dealer's license not later than three  
10 days prior to the date of the termination of the bond  
11 in a newspaper of general circulation in the county  
12 in which the dealer or broker maintains the business  
13 location. If no business location is maintained in  
14 this state, the notice shall be published in a  
15 newspaper which is issued daily in any geographic  
16 area of the state in which the dealer or broker  
17 transacts substantial business.

18 g. A surety bond shall be a continuing bond and  
19 shall secure the payment of liabilities of the dealer  
20 or broker incurred between its effective date and  
21 its termination date. A surety shall not be liable  
22 for any amount in excess of the amount of the bond.  
23 The termination of a bond shall not release the surety  
24 from liability arising out of acts or transactions  
25 occurring prior to the date of termination.

26 3. a. A dealer or broker not submitting a surety  
27 bond shall deposit and maintain with the department  
28 a deposit bond of the required minimum amount in money  
29 or negotiable bonds of the United States or of the  
30 state of Iowa of a political subdivision of the state  
31 of Iowa. The value of negotiable bonds shall be the  
32 market value of those bonds on a day not more than  
33 four days prior to the date of deposit. The deposit  
34 bond shall be accompanied by the certification of  
35 an attorney licensed to practice in the state in which  
36 the broker or dealer maintains its principal place  
37 of business that the bonds submitted qualify as a  
38 deposit bond as required by this section. The deposit  
39 shall be made under a deposit agreement prescribed  
40 by the commissioner of insurance containing terms  
41 equivalent to those required of a surety bond. The  
42 minimum amount of the deposit shall be determined  
43 in the exact manner as the amount of a surety bond  
44 as provided in subsection one (1) of this section,  
45 and a dealer or broker shall maintain a minimum deposit  
46 bond in the manner required by subsection one (1)  
47 of this section. The deposit shall not be subject  
48 to attachment for any claim or levy of execution upon  
49 a judgment based on any claim, except those claims  
50 secured by the deposit.

1 to sellers of animals or from fraud or  
2 misrepresentation against sellers of animals.

3 b. The minimum amount of a surety bond required  
4 of a dealer or broker shall be determined monthly  
5 in accordance with this paragraph. The amount of  
6 the surety bond shall be not less than the nearest  
7 multiple of five thousand dollars which is greater  
8 than twice the average daily value of purchases of  
9 livestock during the calendar month preceding the  
10 month in which the bond determination is being made.  
11 For the purpose of determining average daily value,  
12 the total purchases for the month shall be divided  
13 by the actual number of days business was transacted  
14 by the licensee during that month. In no case shall  
15 the amount of the bond be less than five thousand  
16 dollars.

17 c. The average daily value of purchases for the  
18 initial month of operation of a dealer or broker not  
19 previously licensed under this chapter, or of one  
20 which cannot establish an actual average by purchase  
21 records for a calendar month the last day of which  
22 is not earlier than sixty days prior to the first  
23 day of the month in which the determination is to  
24 be made, shall be the estimate made in good faith  
25 of the purchases to be made during that month.

26 d. Based upon the monthly determinations required  
27 by this subsection, for any month in which twice the  
28 average daily value of purchases of livestock exceeds  
29 the required minimum amount of surety bond, the dealer  
30 or broker shall cause an increase in the amount of  
31 the surety bond to meet the minimum requirement.  
32 When an increase of bond amount is required, the  
33 dealer or broker, without notice, shall cause the  
34 bond to be increased in amount and shall file the  
35 endorsement with the department not later than the  
36 fifteenth calendar day of the month following the  
37 month for which the average daily value of purchases  
38 exceeds the actual bond amount: However, if the  
39 specified day falls on Saturday, Sunday, or a legal  
40 state holiday, the endorsement shall be filed on the  
41 next business day of the department after the fifteenth  
42 calendar day.

43 e. A surety bond may not provide for a reduction  
44 of the bond, and the amount of a bond may not be  
45 reduced, except upon the expiration of ninety days  
46 after the date the existing amount of the bond became  
47 effective.

48 f. A surety bond may not provide for termination,  
49 and may not be terminated, except upon the giving  
50 of written notice by the surety to the department

1 license for each business location, and shall furnish  
2 and maintain separate proof of financial responsibility  
3 for each business location. A broker or dealer who  
4 does not maintain a business location in this state  
5 shall obtain a license to engage in business  
6 transactions in this state. For the purpose of  
7 determining the required minimum bond for a business  
8 location, only the purchases made at or for the single  
9 location shall be included. The required minimum  
10 bond for a dealer or broker not maintaining a business  
11 location in this state shall be determined by including  
12 all purchases made in this state. A dealer or broker  
13 shall maintain separate business records for each  
14 location, as prescribed by rule of the department,  
15 and the failure to comply with any rule of the  
16 department shall constitute a violation of this  
17 chapter.

18 3. No person shall act as an agent for a dealer  
19 or broker without first being licensed as an agent  
20 of that dealer or broker. An application for an  
21 agent's license may be submitted only by a dealer  
22 or broker, and shall contain a verification by that  
23 dealer or broker of the designation of the named  
24 person as agent. The license of an agent shall be  
25 void as of the day written notice of the termination  
26 of employment of that agent is received by the  
27 department from the dealer or broker. The license  
28 of an agent shall expire on the last day of June  
29 following the date of issue. The annual fee for the  
30 license is ten dollars.

31 Sec. 4. Section one hundred seventy-two A point  
32 four (172A.4), Code 1975, is amended by striking the  
33 section and inserting in lieu thereof the following:

34 172A.4 FINANCIAL RESPONSIBILITY.

35 1. No license shall be issued by the department  
36 to a dealer or broker unless the dealer or broker  
37 has submitted proof of financial responsibility with  
38 the application for that license. Failure to maintain  
39 proof of financial responsibility as provided in this  
40 section shall constitute grounds for revocation of  
41 the license. A dealer or broker shall submit and  
42 maintain proof of financial responsibility by surety  
43 bond or by deposit bond as provided in this section.

44 2. a. A dealer or broker may submit and maintain  
45 a bond of a surety company authorized to do business  
46 in the state of Iowa in the form prescribed by, and  
47 executed to the satisfaction of the commissioner of  
48 insurance. The bond shall be conditioned for the  
49 payment of one or more judgments against the dealer  
50 or broker arising from the nonpayment of obligations

H-3491

1 Amend House File 625 by striking everything after  
2 the enacting clause and inserting in lieu thereof  
3 the following:

4 "Section 1. Section one hundred seventy-two A  
5 point one (172A.1), subsection three (3), Code 1975,  
6 is amended to read as follows:

7 3. "Dealer" or "broker" means any person ~~determined~~  
8 ~~by-the-department-of-agriculture-to-be~~ engaged in  
9 the business either of slaughtering live animals,  
10 or of receiving or buying live animals for slaughter  
11 except commission agents and order buyers operating  
12 on a federally approved stockyard and livestock auction  
13 facilities operating under the Packers and Stockyards  
14 Act of 1921 as amended, Title VII, sections 181 and  
15 231, United States Code.

16 Sec. 2. Section one hundred seventy-two A point  
17 one (172A.1), subsection four (4), Code 1975, is  
18 amended to read as follows:

19 4. "Agent" means a person engaged in the business  
20 of buying livestock for slaughter on behalf of any  
21 dealer or broker, except commission agents and order  
22 buyers operating on a federally approved stockyard  
23 and livestock auction facilities operating under the  
24 Packers and Stockyards Act of 1921 as amended, Title  
25 VII, sections 181 and 231, United States Code.

26 Sec. 3. Section one hundred seventy-two A point  
27 two (172A.2), Code 1975, is amended by striking the  
28 section and inserting in lieu thereof the following:

29 172A.2 LICENSE REQUIRED. A dealer, broker, or  
30 agent shall be subject to the following:

31 1. No person shall act as a dealer or broker  
32 without first being licensed. No dealer or broker  
33 shall employ any person to act on behalf of the dealer  
34 or broker unless the dealer or broker is licensed,  
35 has designated that person to act as an agent in the  
36 dealer's or broker's behalf, has notified the  
37 department of that agency in the dealer's or broker's  
38 application for that agent's license, and has received  
39 that agent's license issued by the department. The  
40 act, failure, or omission of an agent, officer, or  
41 other person, whether or not licensed as an agent,  
42 when acting for or employed by a dealer or broker,  
43 within the scope of employment of that person, shall  
44 be deemed the act, failure, or omission of the dealer  
45 or broker as well as of that person. The license  
46 of a dealer or broker shall expire on the last day  
47 of June following the date of issue. The annual fee  
48 for the license of a dealer or broker is twenty-five  
49 dollars.

50 2. A dealer or broker shall obtain a separate

S-3802

1 Amend the Scott and Nolin amendment S-3782 to  
2 House File 625 as amended and passed by the House,  
3 line 6, by inserting after the word "request" the  
4 words "in writing".

S-3802 FILED - *Adopted 5/14 (1384)* BY BERL E. PRIEBE  
MAY 13, 1975

---

S-3822

1 Amend the Shaff et. al. amendment S-3796 to House  
2 File 625 as amended and passed by the House, by  
3 striking lines 39 through 42.

S-3822 FILED AND LOST (*1386*) BY JAMES M. REDMOND  
MAY 14, 1975

## AN ACT

RELATING TO PERSONS ENGAGED IN THE BUSINESS OF SOLICITING,  
PURCHASING, OR RECEIVING LIVE ANIMALS FOR SLAUGHTER, AND  
PROVIDING PENALTIES.

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

Section 1. Section one hundred seventy-two A point one (172A.1), Code 1975, is amended by adding the following new subsection:

NEW SUBSECTION. "Secretary" means the secretary of agriculture or the secretary's designee.

Sec. 2. Section one hundred seventy-two A point one (172A.1), subsection three (3), Code 1975, is amended to read as follows:

3. "Dealer" or "broker" means any person determined by the department of agriculture to be, other than an agent, who is engaged in this state in the business of slaughtering live animals, or receiving, or buying, or soliciting live animals for slaughter, the meat products of which are directly or indirectly to be offered for resale or for public consumption.

Sec. 3. Section one hundred seventy-two A point one (172A.1), subsection four (4), Code 1975, is amended to read as follows:

4. "Agent" means a person engaged in the business of buying or soliciting in this state of livestock for slaughter exclusively on behalf of any a dealer or broker.

Sec. 4. Section one hundred seventy-two A point two (172A.2), Code 1975, is amended to read as follows:

172A.2 LICENSE REQUIRED. No person shall act as a dealer or broker without first being licensed. No agent person shall act for any dealer or broker as an agent unless such dealer

or broker is licensed, has designated such agent to act in his the dealer's or broker's behalf, and has notified the department secretary of the designation in his the dealer's or broker's application for license or has given official notice in writing of the appointment of the agent and ~~requested the department to issue~~ the secretary has issued to the agent an agent's license. A dealer or broker shall be accountable and responsible for contracts made by an agent in the course of his the agent's employment. The license of an agent whose services are employment by the dealer or broker is terminated by or with the dealer or broker shall be void on the date written notice of termination is received by the department secretary. The license of a dealer, broker, or agent, unless revoked, shall expire on the last day of June following the date of issue. The annual fee for the license of a dealer or broker is ~~twenty-five~~ fifty dollars. The annual fee for an agent's license is ten dollars.

No person may be issued a license if that person previously has had a license revoked, or previously was issued a license and the secretary suspended that license, unless the order of suspension or revocation is thereafter terminated by the secretary.

Sec. 5. Section one hundred seventy-two A point four (172A.4), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

172A.4 PROOF OF FINANCIAL RESPONSIBILITY REQUIRED. No license shall be issued by the secretary to a dealer or broker until the applicant has furnished proof of financial responsibility as provided in this section. The proof may be in the following forms:

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

a. The amount of bond for an established dealer or broker who does not maintain a business location in this state shall be not less than the nearest multiple of five thousand dollars above twice the average daily value of purchases of livestock originating in this state, handled by such applicant during the preceding twelve months or such parts thereof as the applicant was purchasing livestock. The bond of a person who does not maintain a business location in this state shall be conditioned for the payment only of those claims which arise from purchases of livestock originating in this state.

b. The amount of bond for an established dealer or broker who maintains one or more business locations in this state shall be not less than the nearest multiple of five thousand dollars above twice the average daily value of purchases of livestock originating in this state handled by the applicant during the preceding twelve months or such parts thereof as the applicant was purchasing livestock. The bond of a person who maintains one or more business locations in this state shall be conditioned for the payment only of those claims which arise from purchases of livestock originating in this state.

c. If a new dealer or broker not previously covered by this chapter applies for a license, the amount of bond shall be based on twice the estimated average daily value of purchases of livestock originating in this state.

d. For the purpose of computing average daily value, two hundred sixty is deemed the number of business days in a year.

e. Whenever a dealer or broker's weekly purchases exceed one hundred fifty percent of his average weekly volume, the department shall require additional bond in an amount determined by the department.

f. The licensee and surety of the bond shall be held and firmly bound unto the secretary as trustee for all persons who may be damaged because of nonpayment of obligations in

connection with the purchase of animals originating in this state. Any person damaged because of such nonpayment may maintain suit in the person's own behalf to recover on the bond, even though not named as a party to the bond.

g. For purposes of subsection one (1) of this section, "purchases of livestock originating in this state" shall not include purchases by dealers or brokers from their subsidiaries.

2. A bond equivalent may be filed in lieu of a bond. The bond equivalent shall be in the form of a trust agreement and the fund of the trust shall be in the form of fully negotiable obligations of the United States or certificates of deposit insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

The trust agreement shall be in the form prescribed by the secretary and executed to the satisfaction of the secretary. The trustee of the trust agreement shall be an institution located in this state in which the funds are invested or deposited.

The trust agreement shall provide as beneficiary, the secretary for the benefit of those persons damaged because of nonpayment of obligations in connection with the purchase of animals originating in this state. The fund in trust shall be an amount calculated in the exact manner as provided in subsection one (1) of this section. The fund in trust shall not be subject to attachment for any other claim, or to levy of execution upon a judgment based on any other claim.

3. Any person damaged by nonpayment of obligations or by any misrepresentation or fraud on the part of a broker or dealer may maintain an action against the broker or dealer, and the sureties on the bonds or the trustee of a trust fund. The aggregate liability of the sureties or the trust for all such damage shall not exceed the amount of the bond or trust. In the event that the aggregate claims exceed the total amount of the bond or trust, the amount payable on account of any

claim shall be in the same proportion to the amount of the bond or trust as the individual claim bears to the aggregate claims.

Unless the person damaged files claim with the dealer or broker, and with the sureties or trustee, and with the department within ninety days after the date of the transaction on which the claim is based, the claimant shall be barred from maintaining an action on the bond or trust and from receiving any proceeds from the bond or trust.

4. Whenever the secretary determines that the business volume of the applicant or licensee is such as to render the bond or trust inadequate, the amount of the bond or trust shall be, upon notice, adjusted.

5. All bonds and trust agreements shall contain a provision requiring that at least thirty days' prior notice in writing be given to the secretary by the party terminating the bond or trust agreement as a condition precedent to termination.

Whenever a bond or a trust agreement is to be terminated by a cancellation by the surety or trustee, the secretary shall cause to be published notices of the proposed cancellation not less than ten days prior to the date the cancellation is effective. The notices shall be published as follows:

(1) In the Iowa Administrative Code.

(2) In a newspaper of general circulation in the county in which the licensee maintains a business location, or if the licensee maintains no business location in this state, then in the county where the licensee transacts a substantial part of the licensee's business.

(3) By general news release to all news media.

Failure by the secretary to cause the publication of notice as required by this paragraph shall not be deemed to prevent or delay the cancellation.

The termination of a bond or a trust agreement shall not release the parties from any liability arising out of the

facts or transactions occurring prior to the termination date.

Trust funds shall not be withdrawn from trust by a licensee until the expiration of ninety days after the date of termination of the trust, and then only if no claims secured by the agreement have been filed with the secretary. If any claims have been filed with the secretary, the withdrawal of funds by the licensee shall not be permitted until the claims have been satisfied or released and evidence of the satisfaction or release filed with the secretary.

6. A person who is not a resident of this state and who either maintains no business location in this state or maintains one or more business locations in this state, and a person who is a resident of this state and who maintains more than one business location in this state, may submit a consolidated proof of financial responsibility. The consolidated proof of financial responsibility shall consist of a bond or a trust agreement meeting all of the requirements of this section, except that the calculation of the amount of the bond or the amount of the trust fund shall be based on the average daily value of all purchases of livestock originating in this state. A person who submits consolidated proof of financial responsibility shall maintain separate records for each business location, and shall maintain such other records respecting purchases of livestock as the secretary by rule shall prescribe.

Sec. 6. Section one hundred seventy-two A point five (172A.5), Code 1975, is amended to read as follows:

172A.5 BONDED PACKERS EXEMPT REGISTRATION. Any A dealer or broker who has a bond required by the United States department of agriculture under the Packers and Stockyards Act of 1921 as amended, Title VII, sections 181 through 231, United States Code, shall be exempt from the bonding provisions of this chapter upon registration with the secretary. Registration shall be effective upon filing with the secretary a certified copy of the bond filed with the United States

department of agriculture, and shall continue in effect until that bond is terminated.

Sec. 7. Section one hundred seventy-two A point six (172A.6), Code 1975, is amended to read as follows:

172A.6 LOW VOLUME DEALERS EXEMPT FROM LICENSE AND BOND.

The licensing license and financial responsibility provisions of this chapter shall not apply to any dealer-or-broker person who has-a-license-issued-by-the-department-to-conduct-a-feed establishment-or-locker-plant is licensed by the secretary as provided in chapters one hundred seventy (170), one hundred seventy-one (171), or one hundred seventy-two (172) of the Code, and who purchases livestock for slaughter valued at less than an average daily value of one two thousand five hundred dollars during the preceding twelve months or such part thereof as the dealer-or-broker person was purchasing livestock. Said licensees are made subject to this chapter as to the regulatory and penal provisions hereof. All other provisions of this chapter shall apply to said dealers or brokers.

The provisions of this chapter shall not apply to any other person who purchases livestock for slaughter valued at less than an average daily value of two thousand five hundred dollars based upon the preceding twelve months or such part thereof as the person was purchasing livestock.

Sec. 8. Section one hundred seventy-two A point nine (172A.9), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

172A.9 PAYMENT FOR LIVESTOCK.

1. Each dealer, or broker purchasing livestock, before the close of the next business day following either the purchase of livestock or the determination of the amount of the purchase price, whichever is later, shall transmit or deliver to the seller or the seller's duly authorized agent the full amount of the purchase price. If livestock is bought on a yield or grade and yield basis, a dealer or broker shall

upon the express request in writing of the seller, transmit or deliver to the seller or the seller's duly authorized agent before the close of the next business day following such purchase or delivery, whichever is later, up to eighty percent of the estimated purchase price, and pay the remaining balance on the next business day following the determination of the purchase price.

2. Payment to the seller shall be made by cash, check, or wire transfer of funds. If payment to the seller is by check, the check shall be drawn on a bank located in this state or on a bank located in an adjacent state and in the nearest city to Iowa in which a check processing center of a federal reserve bank district is located. For the purpose of this subsection, "wire transfer" means any telephonic, telegraphic, electronic, or similar communication between the bank of the purchaser and the bank of the seller which results in the transfer of funds or credits of the purchaser to an account of the seller.

3. Provisions of this section may be modified by an agreement signed by both the buyer and the seller or their duly authorized agents at the time of the sale. However, such an agreement shall not be a condition of sale unless expressly requested by the seller.

4. Failure to comply with this section shall be a violation of this chapter.

Sec. 9. Chapter one hundred seventy-two A (172A), Code 1975, is amended by adding the following new section:

172A.10 NEW SECTION. INJUNCTIONS--CRIMINAL PENALTIES. If any person who is required by this chapter to be licensed fails to obtain the required license, or if any person who is required by this chapter to maintain proof of financial responsibility, or if any licensee fails to discontinue engaging in licensed activities when that person's license has been suspended, such failure shall be deemed a nuisance and the secretary may bring an action on behalf of the state

to enjoin such nuisance. Such actions may be heard on not less than five days notice to the person whose activities are sought to be enjoined. The failure to obtain a license when required, or the failure to maintain proof of financial responsibility shall constitute a violation of this chapter.

Any person convicted of violating any provision of this chapter shall be punished by a fine of not less than five hundred dollars nor more than two thousand five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment.

Sec. 10. Chapter one hundred seventy-two A (172A), Code 1975, is amended by adding the following new section:

172A.11 NEW SECTION. SUSPENSION OF LICENSE.

1. The secretary shall have the authority to suspend the license of any dealer or broker or agent if upon hearing it is found that the dealer or broker or agent has committed any of the following acts or omissions:

- a. Failure to submit a larger bond amount or trust fund when ordered by the secretary.
- b. Failure to pay for purchases of livestock in the manner required by section eight (8) of this Act.

An order of suspension issued by the secretary shall be effective for an indefinite period, unless and until the person establishes to the satisfaction of the secretary that the person has taken reasonable precautions to prevent a recurrence of the act or omission in the future.

2. The secretary shall have the authority temporarily to suspend without hearing the license of any licensee in any of the following circumstances:

- a. The licensee fails to maintain proof of financial responsibility, or the surety on the licensee's bond loses its authorization to issue bonds in this state, or the trustee of a trust fund loses its authorization to engage in the business of a fiduciary.

- b. Claims are filed with the secretary against the bond

or trust in an aggregate amount equal to ten percent or more of the amount of the bond.

A temporary suspension shall be effective on the date of issuance of the order of suspension, and until a revocation hearing has been held and the secretary either has entered an order of revocation of the license, or has terminated the order of suspension.

Sec. 11. Chapter one hundred seventy-two A (172A), Code 1975, is amended by adding the following new section:

172A.12 NEW SECTION. REVOCATION OF LICENSE.

1. The secretary shall have the authority to revoke the license of a dealer or broker or agent upon notice and hearing if any of the following conditions exist:

- a. Grounds exist for the temporary suspension of the license without hearing, and it is established that the person is or will be unable to meet obligations to producers of livestock when due.
- b. The person has refused access to the secretary to the books and records of the person as required by this chapter.
- c. Any other conditions exist which in the opinion of the secretary reasonably establish that it would be financially detrimental to livestock producers of this state to permit the person to engage in licensed activities in this state.

An order of revocation shall be effective upon the issuance of the order of revocation, and until the order is rescinded by the secretary, or until the decision of the secretary is reversed by a final order of a court of this state.

Sec. 12. Chapter one hundred seventy-two A (172A), Code 1975, is amended by adding the following new section:

172A.13 NEW SECTION. RULES. The secretary is authorized to adopt rules pursuant to chapter seventeen A (17A) of the Code which are reasonable and necessary for the enforcement of this Act.

Sec. 13. This Act shall take effect on July 1, 1975. A person having a license in effect on June 30, 1975, shall

have until September 1, 1975 in which to submit application for license and proof of financial responsibility as required by this Act. A license in effect on June 30, 1975, shall continue to be in effect until September 1, 1975, unless sooner revoked, suspended or surrendered by the licensee, and a licensee shall comply with all of the provisions of this Act, except as provided in this section.

---

DALE M. COCHRAN  
Speaker of the House

---

ARTHUR A. NEU  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 625, Sixty-sixth General Assembly.

---

DAVID L. WRAY  
Chief Clerk of the House

Approved June 16, 1975

---

ROBERT D. RAY  
Governor