

12 selling, or exchanging swine as a principal or agent, or one who holds
 13 himself or herself out as so engaged, but does not include the owner or
 14 operator of a farm who does not hold himself or herself out as so en-
 15 gaged, and who sells or exchanges only those swine which have been
 16 kept by him or her solely for feeding or breeding purposes.

1 **SEC. 3. NEW SECTION. Identification required.**

2 1. All boars, sows and stags received for sale or shipment to slaugh-
 3 ter by a livestock dealer, livestock market operator or stockyard opera-
 4 tor shall be identified at the first point of concentration by such dealer
 5 or operator by application of a slap tattoo or other identification ap-
 6 proved by the department.

7 2. All boars, sows and stags consigned directly from a farm to a
 8 slaughtering establishment shall be identified at the first point of con-
 9 centration by the consignee.

1 **SEC. 4. NEW SECTION. Form of identification required.**

2 1. The slap tattoo or other means of identification required by section
 3 three (3) of this Act shall be in accordance with regulations of the de-
 4 partment.

5 2. Each person required by section three (3) of this Act to identify
 6 animals shall record such identification on forms specified and fur-
 7 nished by the department. The identification shall include the tattoo
 8 specifications, the date of application, and the name, address and
 9 county of residence of the person who owned or controlled the herd
 10 from which the animals originated.

11 3. Such records shall be maintained for a length of time as required
 12 by and pursuant to chapter three hundred four (304) of the Code and
 13 at the point of concentration and shall be made available for inspec-
 14 tion by the department at reasonable times.

Approved July 11, 1975

This Act was passed by the G.A. prior to July 1, 1975; see §3.7 of the Code

CHAPTER 131

MEAT PACKERS

H. F. 625

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:

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

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

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

3 3. "Dealer" or "broker" means any person ~~determined by the depart-~~
 4 ~~ment of agriculture to be, other than an agent, who is engaged in this~~
 5 ~~state in the business of slaughtering live animals, or receiving, or buy-~~
 6 ~~ing, or soliciting live animals for slaughter, the meat products of~~
 7 ~~which are directly or indirectly to be offered for resale or for public~~
 8 ~~consumption.~~

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

3 4. "Agent" means a person engaged in the ~~business of~~ buying or so-
4 *liciting in this state of* livestock for slaughter *exclusively* on behalf of
5 ~~any~~ a dealer or broker.

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

3 **172A.2 License required.** No person shall act as a dealer or bro-
4 ker without first being licensed. No ~~agent person~~ shall act for any
5 dealer or broker *as an agent* unless such dealer or broker is licensed,
6 has designated such agent to act in ~~his~~ *the dealer's or broker's* behalf,
7 and has notified the ~~department~~ *secretary* of the designation in ~~his~~ *the*
8 *dealer's or broker's* application for license or has given official notice
9 in writing of the appointment of the agent and ~~requested the depart-~~
10 ~~ment to issue the secretary has issued~~ to the agent an agent's license.
11 A dealer or broker shall be accountable and responsible for contracts
12 made by an agent in the course of ~~his~~ *the agent's* employment. The li-
13 cense of an agent whose ~~services are~~ *employment by the dealer or bro-*
14 *ker is terminated by or with the dealer or broker* shall be void on the
15 date written notice of termination is received by the ~~department~~ *secre-*
16 *tary*. The license of a dealer, broker, or agent, unless revoked, shall ex-
17 pire on the last day of June following the date of issue. The annual
18 fee for the license of a dealer or broker is ~~twenty-five~~ *fifty* dollars. The
19 annual fee for an agent's license is ten dollars.

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

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

4 **172A.4 Proof of financial responsibility required.** No license
5 shall be issued by the secretary to a dealer or broker until the applicant
6 has furnished proof of financial responsibility as provided in this sec-
7 tion. The proof may be in the following forms:

8 1. A bond of a surety company authorized to do business in the state
9 of Iowa in the form prescribed by and to the satisfaction of the secre-
10 tary, conditioned for the payment of a judgment against the applicant
11 furnishing the bond because of nonpayment of obligations in connec-
12 tion with the purchase of animals.

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

22 b. The amount of bond for an established dealer or broker who
23 maintains one or more business locations in this state shall be not less
24 than the nearest multiple of five thousand dollars above twice the av-
25 erage daily value of purchases of livestock originating in this state
26 handled by the applicant during the preceding twelve months or such
27 parts thereof as the applicant was purchasing livestock. The bond of a

28 person who maintains one or more business locations in this state shall
29 be conditioned for the payment only of those claims which arise from
30 purchases of livestock originating in this state.

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

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

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

41 f. The licensee and surety of the bond shall be held and firmly
42 bound unto the secretary as trustee for all persons who may be dam-
43 aged because of nonpayment of obligations in connection with the pur-
44 chase of animals originating in this state. Any person damaged because
45 of such nonpayment may maintain suit in the person's own behalf to
46 recover on the bond, even though not named as a party to the bond.

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

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

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

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

67 3. Any person damaged by nonpayment of obligations or by any
68 misrepresentation or fraud on the part of a broker or dealer may main-
69 tain an action against the broker or dealer, and the sureties on the
70 bonds or the trustee of a trust fund. The aggregate liability of the sure-
71 ties or the trust for all such damage shall not exceed the amount of the
72 bond or trust. In the event that the aggregate claims exceed the total
73 amount of the bond or trust, the amount payable on account of any
74 claim shall be in the same proportion to the amount of the bond or
75 trust as the individual claim bears to the aggregate claims.

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

81 4. Whenever the secretary determines that the business volume of
82 the applicant or licensee is such as to render the bond or trust inade-
83 quate, the amount of the bond or trust shall be, upon notice, adjusted.

84 5. All bonds and trust agreements shall contain a provision requiring
85 that at least thirty days' prior notice in writing be given to the secre-
86 tary by the party terminating the bond or trust agreement as a condi-
87 tion precedent to termination.

88 Whenever a bond or a trust agreement is to be terminated by a can-
89 cellation by the surety or trustee, the secretary shall cause to be pub-
90 lished notices of the proposed cancellation not less than ten days prior
91 to the date the cancellation is effective. The notices shall be published
92 as follows:

93 (1) In the Iowa Administrative Code.

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

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

99 Failure by the secretary to cause the publication of notice as required
100 by this paragraph shall not be deemed to prevent or delay the cancel-
101 lation.

102 The termination of a bond or a trust agreement shall not release the
103 parties from any liability arising out of the facts or transactions occur-
104 ring prior to the termination date.

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

112 6. A person who is not a resident of this state and who either main-
113 tains no business location in this state or maintains one or more busi-
114 ness locations in this state, and a person who is a resident of this state
115 and who maintains more than one business location in this state, may
116 submit a consolidated proof of financial responsibility. The consolidat-
117 ed proof of financial responsibility shall consist of a bond or a trust
118 agreement meeting all of the requirements of this section, except that
119 the calculation of the amount of the bond or the amount of the trust
120 fund shall be based on the average daily value of all purchases of live-
121 stock originating in this state. A person who submits consolidated proof
122 of financial responsibility shall maintain separate records for each busi-
123 ness location, and shall maintain such other records respecting purchas-
124 es of livestock as the secretary by rule shall prescribe.

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

3 **172A.5 Bonded packers exempt registration.** ~~Any~~ A dealer or
4 broker who has a bond required by the United States department of ag-
5 riculture under the Packers and Stockyards Act of 1921 as amended,
6 Title VII, sections 181 through 231, United States Code, shall be ex-
7 empt from the bonding provisions of this chapter *upon registration*
8 *with the secretary. Registration shall be effective upon filing with*
9 *the secretary a certified copy of the bond filed with the United*
10 *States department of agriculture, and shall continue in effect until*
11 *that bond is terminated.*

1 SEC. 7. Section one hundred seventy-two A point six (172A.6), Code
2 1975, is amended to read as follows:

3 **172A.6 Low volume dealers exempt from license and**
4 **bond.** The ~~licensing~~ *license and financial responsibility* provisions

5 of this chapter shall not apply to any ~~dealer or broker~~ person who has
 6 a license issued by the department to conduct a food establishment or
 7 locker plant is licensed by the secretary as provided in chapters one
 8 hundred seventy (170), one hundred seventy-one (171), or one
 9 hundred seventy-two (172) of the Code, and who purchases livestock
 10 for slaughter valued at less than an average daily value of ~~one~~ two
 11 thousand five hundred dollars during the preceding twelve months or
 12 such part thereof as the ~~dealer or broker~~ person was purchasing live-
 13 stock. Said licensees are made subject to this chapter as to the regulato-
 14 ry and penal provisions hereof. All other provisions of this chapter
 15 shall apply to said dealers or brokers.

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

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

4 **172A.9 Payment for livestock.**

5 1. Each dealer, or broker purchasing livestock, before the close of the
 6 next business day following either the purchase of livestock or the de-
 7 termination of the amount of the purchase price, whichever is later,
 8 shall transmit or deliver to the seller or the seller's duly authorized
 9 agent the full amount of the purchase price. If livestock is bought on a
 10 yield or grade and yield basis, a dealer or broker shall upon the express
 11 request in writing of the seller, transmit or deliver to the seller or the
 12 seller's duly authorized agent before the close of the next business day
 13 following such purchase or delivery, whichever is later, up to eighty
 14 percent of the estimated purchase price, and pay the remaining bal-
 15 ance on the next business day following the determination of the pur-
 16 chase price.

17 2. Payment to the seller shall be made by cash, check, or wire trans-
 18 fer of funds. If payment to the seller is by check, the check shall be
 19 drawn on a bank located in this state or on a bank located in an adja-
 20 cent state and in the nearest city to Iowa in which a check processing
 21 center of a federal reserve bank district is located. For the purpose of
 22 this subsection, "wire transfer" means any telephonic, telegraphic, elec-
 23 tronic, or similar communication between the bank of the purchaser
 24 and the bank of the seller which results in the transfer of funds or cred-
 25 its of the purchaser to an account of the seller.

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

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

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

3 **172A.10 NEW SECTION. Injunctions—criminal penalties.** If
 4 any person who is required by this chapter to be licensed fails to obtain
 5 the required license, or if any person who is required by this chapter to
 6 maintain proof of financial responsibility, or if any licensee fails to
 7 discontinue engaging in licensed activities when that person's license
 8 has been suspended, such failure shall be deemed a nuisance and the
 9 secretary may bring an action on behalf of the state to enjoin such nui-

10 sance. Such actions may be heard on not less than five days notice to
 11 the person whose activities are sought to be enjoined. The failure to
 12 obtain a license when required, or the failure to maintain proof of fi-
 13 nancial responsibility shall constitute a violation of this chapter.

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

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

3 **172A.11 NEW SECTION. Suspension of license.**

4 1. The secretary shall have the authority to suspend the license of
 5 any dealer or broker or agent if upon hearing it is found that the deal-
 6 er or broker or agent has committed any of the following acts or omis-
 7 sions:

8 a. Failure to submit a larger bond amount or trust fund when or-
 9 dered by the secretary.

10 b. Failure to pay for purchases of livestock in the manner required
 11 by section eight (8) of this Act.

12 An order of suspension issued by the secretary shall be effective for
 13 an indefinite period, unless and until the person establishes to the sat-
 14 isfaction of the secretary that the person has taken reasonable precau-
 15 tions to prevent a recurrence of the act or omission in the future.

16 2. The secretary shall have the authority temporarily to suspend
 17 without hearing the license of any licensee in any of the following cir-
 18 cumstances:

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

23 b. Claims are filed with the secretary against the bond or trust in an
 24 aggregate amount equal to ten percent or more of the amount of the
 25 bond.

26 A temporary suspension shall be effective on the date of issuance of
 27 the order of suspension, and until a revocation hearing has been held
 28 and the secretary either has entered an order of revocation of the li-
 29 cense, or has terminated the order of suspension.

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

3 **172A.12 NEW SECTION. Revocation of license.**

4 1. The secretary shall have the authority to revoke the license of a
 5 dealer or broker or agent upon notice and hearing if any of the follow-
 6 ing conditions exist:

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

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

12 c. Any other conditions exist which in the opinion of the secretary
 13 reasonably establish that it would be financially detrimental to live-
 14 stock producers of this state to permit the person to engage in licensed
 15 activities in this state.

*See also §172A.9 of the Code

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

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

3 **172A.13 NEW SECTION. Rules.** The secretary is authorized to
 4 adopt rules pursuant to chapter seventeen A (17A) of the Code which
 5 are reasonable and necessary for the enforcement of this Act.

1 SEC. 13. This Act shall take effect on July 1, 1975. A person having
 2 a license in effect on June 30, 1975, shall have until September 1, 1975
 3 in which to submit application for license and proof of financial re-
 4 sponsibility as required by this Act. A license in effect on June 30,
 5 1975, shall continue to be in effect until September 1, 1975, unless
 6 sooner revoked, suspended or surrendered by the licensee, and a licen-
 7 see shall comply with all of the provisions of this Act, except as provid-
 8 ed in this section.

Approved June 16, 1975

CHAPTER 132

LIVESTOCK TRANSPORTATION

H. F. 185

AN ACT relating to the transporting of livestock, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. NEW SECTION. **Definitions.** As used in this Act, un-
 2 less the context otherwise requires:

3 1. "Livestock" means and includes live cattle, swine, sheep or horses,
 4 and the carcasses of such animals whether in whole or in part.

5 2. "Law enforcement officer" means a state highway safety patrol-
 6 man, a sheriff, or other peace officer so designated by this state or by a
 7 county or municipality.

8 3. "Owner" means a person having legal title to livestock.

9 4. "Secretary" means the secretary of agriculture or his designee.

10 5. "Transporting livestock" means being in custody of or operating a
 11 vehicle in this state, whether or not on a highway, in which are con-
 12 fined one or more head of livestock. Vehicle includes a truck, trailer,
 13 and other device used for the purpose of conveying objects, whether or
 14 not the device has motive power or is attached to a vehicle with motive
 15 power at the time the livestock are confined.

16 6. "Transportation certificate" means the document specified in sec-
 17 tion three (3) of this Act, and includes either the standard form pre-
 18 scribed by the secretary, or a substitute document the use of which has
 19 been authorized by the secretary.

1 SEC. 2. NEW SECTION. **Transportation certificate exhibited—**
 2 **public offense.** A person transporting livestock shall execute in the
 3 presence of a law enforcement officer, at the request of the officer, a
 4 transportation certificate. A person who fails to comply with this sec-
 5 tion commits a public offense punishable as provided in section six (6)