

House Bill 268 (COMMITTEE SUBSTITUTE)

By: Representatives Harden of the 148th, England of the 116th, Jasperse of the 11th, Burns of the 159th, Williams of the 119th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 9 of Title 2 of the Official Code of Georgia Annotated,
2 relating to dealers in agricultural products generally, so as to remove eggs from the definition
3 of "agricultural products"; to establish a fee for licensing of dealers in agricultural products;
4 to modify bond requirements for dealers in agricultural products; to provide for an
5 exemption; to amend Article 2 of Chapter 9 of Title 2 of the Official Code of Georgia
6 Annotated, relating to grain dealers, so as to expand the definition of "grain"; to modify bond
7 requirements for grain dealers; to amend Title 43 of the Official Code of Georgia Annotated,
8 relating to professions and businesses, so as to eliminate obsolete registration and licensing
9 requirements for pecan dealers and processors; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 1 of Chapter 9 of Title 2 of the Official Code of Georgia Annotated, relating to
14 dealers in agricultural products generally, is amended by revising Code Section 2-9-1,
15 relating to definitions, as follows:

16 "2-9-1.

17 As used in this article, the term:

18 (1) 'Agricultural products' includes fruits, vegetables, ~~eggs~~, pecans, and cotton but does
19 not include dairy products, tobacco, grains, eggs, and other basic farm crops.

20 (2) 'Dealer in agricultural products' means any person, association, itinerant dealer,
21 partnership, or corporation engaged in the business of buying, receiving, selling,
22 exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any
23 agricultural products purchased from the producer or his or her agent or representative
24 or received on consignment from the producer or his or her agent or representative or
25 received to be handled on a net return basis from the producer. The term 'dealer in

26 agricultural products' also includes any person buying, selling, processing, or shelling
27 pecan nuts, including any and every kind and variety of pecan nuts.

28 (3) 'Net return basis' means a purchase for sale of agricultural products from a producer
29 or shipper at a price which is not fixed or stated at the time the agricultural products are
30 shipped from the point of origin. The term includes all purchases made 'at the market
31 price,' 'at net worth,' and on similar terms indicating that the buyer is the final arbiter of
32 the price to be paid.

33 (4) 'On consignment' means any receiving or sale of agricultural products for the account
34 of a person, other than the seller, wherein the seller acts as the agent for the owner.

35 (5) 'Producer' means any producer of agricultural products."

36 SECTION 2.

37 Said article is further amended by revising Code Section 2-9-4, relating to issuance of
38 license, to read as follows:

39 "2-9-4.

40 Unless the Commissioner refuses the application on one or more of the grounds provided
41 in Code Section 2-9-7, he or she shall issue to such applicant, upon the execution and
42 delivery of a bond as provided in Code Section 2-9-5, a state license entitling the applicant
43 to conduct business as a dealer in agricultural products. ~~No fee for such license shall be~~
44 ~~charged~~ An annual fee not to exceed \$400.00 shall be required before a license is issued.
45 Such license shall be valid until revoked or suspended as provided in this article, or until
46 the annual license renewal fee is unpaid."

47 SECTION 3.

48 Said article is further amended by revising Code Section 2-9-5, relating to bond
49 requirements, to read as follows:

50 "2-9-5.

51 Before any license is issued the applicant shall make and deliver to the Commissioner a
52 surety bond executed by a surety corporation authorized to transact business in this state
53 and approved by the Commissioner. Any and all bond applications shall be accompanied
54 by a certificate of 'good standing' issued by the Commissioner of Insurance. If any
55 company issuing a bond shall be removed from doing business in this state, it shall be the
56 duty of the Commissioner of Insurance to notify the Commissioner of Agriculture within
57 30 days. The bond shall be ~~in such amount as the Commissioner may determine, not~~
58 ~~exceeding an amount~~ equal to the maximum amount of products purchased from or sold
59 for Georgia producers or estimated to be purchased or sold in any month by the applicant;
60 provided, however, that the minimum amount of such bond shall be \$10,000.00 and the

61 maximum amount of such bond shall be \$230,000.00; provided, further, that or in the case
 62 of cotton pecans, such bond shall not to exceed \$150,000.00 \$500,000.00. Such bond shall
 63 be upon a form prescribed or approved by the Commissioner and shall be conditioned to
 64 secure the faithful accounting for and payment to producers or their agents or
 65 representatives of the proceeds of all agricultural products handled or sold by such dealer.
 66 However, in lieu of a surety bond, the Commissioner may accept a cash bond, which shall
 67 in all respects be subject to the same claims and actions as would exist against a surety
 68 bond. Whenever the Commissioner shall determine that a previously approved bond has
 69 for any cause become insufficient, the Commissioner may require an additional bond or
 70 bonds to be given, conforming with the requirements of this Code section. Unless the
 71 additional bond or bonds are given within the time fixed by written demand therefor, or if
 72 the bond of a dealer is canceled, the license of such person shall be immediately revoked
 73 by operation of law without notice or hearing and such person shall be ineligible to reapply
 74 for such license for a period of four years after such revocation."

75 **SECTION 4.**

76 Said article is further amended by revising Code Section 2-9-15, relating to applicability of
 77 article, as follows:

78 "2-9-15.

79 (a) This article shall not apply to:

- 80 (1) Farmers or groups of farmers in the sale of agricultural products grown by
 81 themselves;
- 82 (2) Persons who buy for cash, paying at the time of purchase in United States currency,
 83 certified check, cashier's check, or the equivalent; or
- 84 (3) Holders of food sales establishment licenses issued pursuant to Article 2 of Chapter
 85 2 of Title 26, the 'Georgia Food Act,' who conduct no business at the wholesale level and
 86 who have fewer than ten employees.

87 (b) No warehouse that is in full compliance with the provisions of Article 1 of Chapter 4
 88 of Title 10 shall be required to obtain a license or maintain a surety bond under this article."

89 **SECTION 5.**

90 Article 2 of Chapter 9 of Title 2 of the Official Code of Georgia Annotated, relating to grain
 91 dealers, is amended by revising Code Section 2-9-30, relating to definitions, to read as
 92 follows:

93 "2-9-30.

94 As used in this article, the term:

95 (1) 'Grain' means all products commonly classified as grain, including, but not limited
 96 to, wheat, corn, oats, barley, rye, field peas, soybeans, clover, and grain sorghum. The
 97 term does not include grain which has been produced or packaged for purchase or
 98 distribution as seed.

99 (2) 'Grain dealer' means any person, association, itinerant dealer, partnership, or
 100 corporation engaged in the business of buying, receiving, selling, exchanging,
 101 negotiating, or soliciting the sale, resale, exchange, or transfer of any grain purchased
 102 from the producer or his or her agent or representative, received on consignment from the
 103 producer or his or her agent or representative, or received to be handled on a net return
 104 basis from the producer.

105 (3) 'On consignment' means any receipt or sale of grain for the account of a person other
 106 than the seller in which the seller acts as the agent for the owner.

107 (4) 'Producer' means any producer of grain."

108 **SECTION 6.**

109 Said article is further amended by revising subsection (a) of Code Section 2-9-34, relating
 110 to bond requirements, to read as follows:

111 "2-9-34.

112 (a) Before any license is issued, the applicant shall make and deliver to the Commissioner
 113 a surety bond in the amount of 20 percent of the average of the highest dollar volume of
 114 grain purchases from producers made in any single month for each of the three preceding
 115 calendar years or such shorter period of years as the applicant has done business as a grain
 116 dealer, provided that the minimum amount of such bond shall be \$20,000.00 and the
 117 maximum amount of such bond shall be ~~\$150,000.00~~ \$300,000.00. If a licensed grain
 118 dealer operates his or her grain-dealing activities at more than one physical location, he or
 119 she shall furnish a surety bond for each location of grain-dealing activities, each bond to
 120 be computed as stated in this Code section and each bond to be subject to the minimum and
 121 maximum amounts stated in this Code section. The bonds shall be executed by a surety
 122 corporation authorized to transact business in this state and approved by the Commissioner.
 123 Any and all bond applications shall be accompanied by a certificate of 'good standing'
 124 issued by the Commissioner of Insurance. If any company issuing a bond shall be removed
 125 from doing business in this state, it shall be the duty of the Commissioner of Insurance to
 126 notify the Commissioner of Agriculture within 30 days. Such bonds shall be upon forms
 127 prescribed by the Commissioner and shall be conditioned to secure the faithful accounting
 128 for and payment to the producers or their agents or representatives of the proceeds of all
 129 grain handled or sold by such dealer. Whenever the Commissioner shall determine that a
 130 previously approved bond has for any cause become insufficient, the Commissioner may

131 require an additional bond or bonds to be given, conforming with the requirements of this
132 Code section. Unless the additional bond or bonds are given within the time fixed by
133 written demand therefor, or if the bond of a dealer is canceled, the license of such person
134 shall be immediately revoked by operation of law without notice or hearing."

135 **SECTION 7.**

136 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
137 is amended by repealing Chapter 31, relating to pecan dealers and processors, and
138 designating said chapter as reserved.

139 **SECTION 8.**

140 All laws and parts of laws in conflict with this Act are repealed.