

Rule 40-13-7-.01 Licensing and Bonding Surety Requirements

(1) Definitions:

(a) “Approved livestock auction market” means a livestock auction market or livestock sales establishment that must comply with all federal and state laws and requirements set forth by the Georgia Department of Agriculture. For purposes of the following rules and regulations, buying stations and livestock concentration points are treated as livestock sales establishments.

(b) “Electronic livestock sales” means sales of livestock, poultry, equines, and non-traditional livestock conducted by electronic means without the physical presence of buyer or seller and with no physical examination of the livestock performed by the buyer. Electronic livestock sales include internet and video sales.

(c) “Farmer” means a person who raises livestock, poultry, equines, or non-traditional livestock; or a person who raises animals for agricultural purposes.

(d) “Livestock” means cattle, swine, equines, sheep, and goats of all kinds and species.

(e) “Livestock dealer” means any livestock auction market, person, or agent of such person or livestock auction market which engages in or facilitates, including by electronic means, the business of buying, selling, exchanging, or otherwise transferring ownership of livestock or non-traditional livestock within the state for his or her own account or for that of another. For purposes of the following rules and regulations, brokers and packer buyers are treated as livestock dealers. The term “dealer” does not include:

1. Farmers acquiring livestock solely for the purpose of grazing and feeding as part of their farm operations;
2. Packers whose total annual purchases of livestock are less than \$50,000.00, and who buy only from licensed dealers and licensed sales establishments;
3. Persons selling only livestock of their own production or buying only for their own production; and
4. Persons auctioning livestock on behalf of a third party.

(f) “Livestock auction market operator” means any person or entity engaged in the business of operating a livestock sales establishment or a public auction or sale of livestock; or who houses livestock with the intended purpose of auction or sale.

(g) “Non-traditional livestock” means the species of the Order Artiodactyla listed as antelope, bison, buffalo, catalo, elk, deer other than white-tailed deer, and water buffalo; as well as members of the Camelidae family listed as camels, llamas, and alpacas that are held and possessed legally under the wild animal provisions of O.C.G.A. Title 27.

(h) “Official identification” means methods of species identification approved by the State Veterinarian. Backtags may be used as official identification only in circumstances outlined by the USDA Animal Disease Traceability program or rules and regulations of the Georgia Department of Agriculture.

(i) "Person" means any person, firm, corporation, association, cooperative, or combination thereof.

(j) "Surety" means a letter of credit, certificate of deposit, or other written instrument issued or executed by a lending institution or bonding, surety, or insurance company licensed to do business in this state, guaranteeing the faithful performance of the terms of the contract of purchase, including the payment of the purchase price of all livestock purchased by the holder of such instrument, made payable to the Commissioner for the benefit of persons sustaining loss resulting from the nonpayment of the purchase price or the failure to fulfill the terms of the contract of purchase.

~~(1) (2) Auction Markets: No livestock auction market shall operate in Georgia unless bonded in accordance with requirements of State Law, which provides, for a bond in the amount of 1/52 of the annual volume of such establishment. When bond amount exceeds \$50,000.00, 20% of excess will be added to the \$50,000.00 in increments of \$5,000.00. Minimum coverage of \$10,000.00 is required. Upon proof of adequate bond coverage and application by the auction market, the Department shall license such market in accordance with the licensing provisions of State Law. Such license shall be valid until such time as suspended, revoked or cancelled by the Commissioner of Agriculture. If the bond is cancelled, for any reason, then the license shall immediately be revoked by operation of law without notice or hearing. Neither the bond nor the license is transferable.~~

(a) A livestock auction market must not operate in Georgia unless it has a surety in force which sufficiently secures the performance of the holder's obligations. The amount of this surety must be established in a memorandum of understanding with the Department.

(b) The Department may license a livestock auction market upon receiving an application by the livestock auction market and proof of surety coverage. The Department will conduct all livestock auction market licensing operations in accordance with licensing provisions of state law.

(c) A license issued to a livestock auction market will be valid for three years unless suspended, revoked, or cancelled by the Commissioner of Agriculture. All licenses will expire on December 31 on the third year of licensure.

(d) If the surety is cancelled for any reason, then the license will be revoked immediately by operation of law without notice or hearing.

(e) The Department has the authority to notify the public if a license is revoked for any reason.

(f) Neither the surety nor the license is transferable. Any change in ownership renders the previous license null and void.

~~(2) (3) Livestock Dealers, including Brokers, Packer Buyers and Buying Stations: No dealer shall engage in the business of buying and selling livestock from a sales establishment, dealer or directly from farmers unless they have in force a bond in the amount equal to annual volume divided by 130. When bond amount exceeds \$75,000.00, 10% of excess will be added to the \$75,000.00 in increments of \$5,000.00. Minimum of \$10,000.00 coverage is required. This requirement does not apply when purchases are made for cash only. "Cash" includes ONLY~~

currency, cashier's check and money orders. License for "Cash Only" purchases is required. No livestock auction market operator shall permit a dealer, broker or packer buyer who is not properly licensed and bonded to purchase livestock other than for cash. Farmers purchasing livestock solely for the purpose of grazing and feeding as a part of their farm operation are exempt from licensing and bonding requirements provided livestock is kept for a minimum of 90 days.

(a) A dealer must not buy or sell livestock through a sales establishment, dealer, or directly through farmers in Georgia unless he or she has a surety in force which sufficiently secures the performance of the holder's obligations. The amount of this surety must be established in a memorandum of understanding with the Department.

(b) The Department may license a livestock dealer upon receiving an application by the dealer and proof of surety coverage. The Department will conduct all dealer licensing operations in accordance with licensing provisions of state law.

(c) A license issued to a livestock dealer will be valid for three years unless suspended, revoked, or cancelled by the Commissioner of Agriculture. All licenses will expire on December 31 on the third year of licensure.

(d) If the surety is cancelled for any reason, then the license will be revoked immediately by operation of law without notice or hearing.

(e) The Department has the authority to notify the public if a license is revoked for any reason.

(f) Neither the surety nor the license is transferable. Any change in ownership renders the previous license null and void.

(g) This surety requirement does not apply when purchases are made for cash only. "Cash" includes only currency, cashier's checks, and money orders. A statement is required for "Cash Only" purchases. This statement, which is provided by the Department, must be completed and signed prior to the purchase.

(h) A livestock auction market operator must not permit a dealer, broker, or packer buyer to purchase livestock other than for cash if the dealer, broker, or packer buyer lacks a proper license or sufficient surety.

(i) Farmers purchasing livestock solely for the purpose of grazing and feeding as part of their farm operation are exempt from licensing and surety requirements.

~~(3) Upon proof of being properly bonded and upon application by the dealer the Department shall issue such dealer a license in accordance with the licensing provisions of State law. Such license shall be valid until such time as suspended, revoked, or cancelled by the Commissioner of Agriculture. If the bond is cancelled for any reason, then the license shall immediately be revoked by operation of law without notice or hearing. Neither the bond nor the license is transferable.~~

~~(4) Buying stations and livestock concentration points shall be bonded and licensed by the Department and shall meet the same standards of sanitation as required of livestock auction markets must maintain sufficient surety and licensure with the Department. Buying stations and~~

livestock concentration points must meet the same sanitation standards as livestock auction markets, utilize proper identification methods, and comply with federal and state laws.

(5) ~~No~~ A person, firm, or corporation ~~shall~~ must not sell or offer for sale any livestock in ~~the~~ a name of any person, firm or corporation other than the legal owner of such livestock at the time of sale.

(6) ~~All auction markets shall furnish the Department of Agriculture a report showing the total amount of sales of such auction market for the preceding calendar year. This report shall be made not later than March 31 of the succeeding year. It shall be the duty of each dealer to report to the Commissioner of Agriculture not later than March 31 of each year, the total purchase of such dealer for the preceding year. All auction market operators and livestock dealers shall submit a current financial statement annually to the Department of Agriculture. All applicants for licensure shall submit to the Department of Agriculture a current financial statement. All applicants for licensure must submit a current financial statement to the Georgia Department of Agriculture, and all licensees must submit a current financial statement annually to the Department.~~

(7) All livestock auction markets, ~~dealer~~ dealers, and buying stations ~~shall~~ must maintain adequate records on sales and purchases. ~~Such~~ These records ~~shall~~ must include, but not be limited to, the following information:

- (a) ~~complete~~ Complete name and address of purchaser ~~and~~ with date of purchase;
- (b) ~~complete~~ Complete name and address of seller ~~and~~ with date of sale;
- (c) ~~complete~~ Complete name and address of herd of origin, if different from name of seller;
- (d) ~~identification~~ Identification of cattle by ~~ear tag~~ official ID, tattoo, breed, sex, and weight.

These records must be maintained for a period of five years and must be made available to authorized personnel of the Georgia Department of Agriculture. Any livestock auction market which has undergone a management change should maintain records created during this required period under the previous management.

(8) ~~The records referred to in (6) and (7) above shall be maintained for a period of two (2) years and shall be made available to authorized personnel of the Georgia Department of Agriculture.~~

(9) ~~In the event that a livestock market changes management, the records referred to in (7) above should be maintained at the livestock market for a period of two (2) years.~~

Authority: O.C.G.A. Secs. 4-6-2, 4-6-3, 4-6-4, 4-6-5, 4-6-6, 4-6-7, 4-6-42, 4-6-43, O.C.G.A. 4-6-46, 4-6-49.1