

House Bill No. 1231

An act relating to dealers in agricultural products; amending s. 604.15, F.S.; revising definitions; expanding the list of products covered by the law; defining the terms “negotiating broker” and “producer’s agent”; amending s. 604.16, F.S.; revising exceptions to provisions regulating dealers; amending s. 604.18, F.S., relating to applications for dealer licensure; requiring dealers to provide mailing and location address information; requiring dealers to provide certain information relating to the dollar amount of business done or to be done; amending s. 604.19, F.S.; providing requirements relating to cancellation of a bond or certificate of deposit; increasing license fees and delinquent renewal penalties; amending s. 604.20, F.S.; increasing the minimum amount of a bond or certificate of deposit for licensure; providing a calculation for the amount of a bond or certificate of deposit; adding requirements relating to bond or certificate of deposit assignment or agreement; authorizing the Department of Agriculture and Consumer Services to issue a conditional license under certain conditions; amending s. 604.21, F.S.; increasing the minimum claim amount and requiring a complaint filing fee; providing requirements for submission of a complaint and payment for multiple claims; authorizing a dealer in agricultural products to file a complaint against another dealer in agricultural products; limiting the time a complaint may be held in abeyance; authorizing review of a final order; clarifying distribution of bond or certificate of deposit proceeds; amending s. 604.22, F.S.; revising recordkeeping requirements of licensees; clarifying application of provisions; amending ss. 604.23 and 604.25, F.S.; clarifying application of provisions; amending s. 604.30, F.S.; clarifying that a violator of provisions regulating dealers in agricultural products may be a person, partnership, corporation, or other business entity; increasing the maximum administrative fine and the fine for continued violation of an administrative order; providing an appropriation and authorizing full-time equivalent positions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 604.15, Florida Statutes, is amended to read:

604.15 Dealers in agricultural products; definitions.—For the purpose of ss. 604.15-604.34, the following words and terms, when used, shall be construed to mean:

(1)(3) “Agricultural products” means the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary (raw or manufactured); sod; tropical foliage; horticulture; hay; livestock; milk and milk products; poultry and poultry products; the fruit of the saw palmetto (meaning the fruit of the *Serenoa repens*); and limes (meaning the fruit *Citrus aurantiifolia*, variety Persian, Tahiti, Bearss, or Florida Key limes); and any other

nonexempt agricultural products produced in the state, except tobacco, tropical foliage, sugarcane, timber and timber by-products, forest products as defined in s. 591.17, and citrus other than limes.

(2)(4) “Dealer in agricultural products” means any person, partnership, corporation, or other business entity, whether itinerant or domiciled within this state, engaged within this state in the business of purchasing, receiving, or soliciting agricultural products from the producer or the producer’s her ~~or his~~ agent or representative for resale or processing for sale; acting as an agent for such producer in the sale of agricultural products for the account of the producer on a net return basis; or acting as a negotiating broker between the producer or the producer’s her ~~or his~~ agent or representative and the buyer.

(3)(6) “Delivery ticket” means a document provided to a grain producer by a grain dealer in conjunction with the delivery of grain to the grain dealer.

(4)(2) “Department” means the Department of Agriculture and Consumer Services.

(5)(7) “Grain” means any food or feed grains, which include, but are not limited to, soybeans, corn, wheat, oats, and rye.

(6)(8) “Grain dealer” means any person engaged in this state in:

(a) Buying, receiving, selling, exchanging, negotiating, or processing for resale, or soliciting the sale, resale, exchange, or transfer of, grain purchased from the producer or the producer’s her ~~or his~~ agent or representative or received from the producer to be handled on a net return basis; or

(b) Receiving grain for storage.

(7) “Negotiating broker” means any person in the state engaged in the business of negotiating sales and purchases of agricultural products with a dealer in agricultural products for or on behalf of the producer or the producer’s agent or representative. The negotiating broker never takes title to the agricultural product involved in the sale or purchase or handles the proceeds therefrom.

(8)(4) “Net return basis” means the sale of agricultural products for the account of a producer person, other than the seller, wherein the seller acts as the agent for the producer owner and pays the producer owner of such products the net proceeds after subtracting all authorized and allowable deductions.

(9)(5) “Producer” means any grower producer of agricultural products produced in the state.

(10) “Producer’s agent” means the seller of agricultural products for the account of a producer or group of producers on a net return basis, wherein the producer’s agent acts as the agent for the producer or group of producers and pays the producer of such products all of the net proceeds after subtract-

ing all authorized and allowable deductions. Allowable deductions may include, but are not limited to: packing charges, shipping charges, boxes, crates, billing, commission fees, cooling charges, pallets, and other deductible charges or fees agreed upon by the producer and producer's agent.

Section 2. Subsections (2) and (4) of section 604.16, Florida Statutes, are amended to read:

604.16 Exceptions to provisions of ss. 604.15-604.34.—Except for s. 604.22(2), the provisions of ss. 604.15-604.34 do not apply to:

(2) A dealer in agricultural products ~~All persons who pays buy for cash and pay~~ at the time of purchase with United States cash currency or a cash equivalent, such as a money order, cashier's check, wire transfer, electronic funds transfer, or debit card.

(4) ~~Dealers who operate exclusively on a retail basis and who purchase less than \$1,000 worth of agricultural products from Florida producers or their agents or representatives during the peak month of such purchases within the calendar year.~~

Section 3. Section 604.18, Florida Statutes, is amended to read:

604.18 Application; form; contents.—Every dealer in agricultural products, desiring to transact business within the state directly with a Florida producer, a producer's agent or representative, or a negotiating broker, shall, prior to transacting any business as such, file an application for such license with the department. License shall be renewed annually on its anniversary date. The application shall be on a form furnished by the department and, together with such other information as the department shall require, shall state:

(1) The kind or kinds of agricultural products the applicant proposes to handle.;

(2) The full name or title of the person, partnership, corporation, or other business entity and applicant, or if the applicant be an association or copartnership, the name of each member of such association or copartnership, or if the applicant be a corporation, the name and mailing address of each owner, partner, officer, or managing agent. ~~officer of the corporation;~~

(3) The names of buyers or other local agents of the applicant, if any.;

(4) The cities and towns within which places of business of the applicant will be located, together with the street or mailing address of each.;

(5) The federal employer's identification number of the applicant, if any.

(6) The primary mailing address and physical address for each place of business. A dealer in agricultural products must have on file with the department the address of the dealer's primary place of business prior to engaging in business as a dealer in agricultural products in this state. Prior to changing the address of the primary place of business, the dealer must notify the department of the address of the new primary place of business.

All documents relating to the provisions of ss. 604.15-604.34 and chapter 120 shall be served to the last address of record; to a corporation's registered agent or the registered agent's substitute; in the absence of a registered agent, to an owner, officer, partner, employee, or managing agent of the business entity; or as designated by the applicant in the applicant's application.

(7) The dollar amount of business done by a renewal applicant with Florida producers and their agents or representatives during the month in which the maximum dollar amount of agricultural products was purchased or handled as a dealer in agricultural products or the dollar amount of business estimated to be done by a first-time applicant with Florida producers and their agents or representatives during the month in which the estimated maximum dollar amount of agricultural products will be purchased or handled as a dealer in agricultural products.

Section 4. Section 604.19, Florida Statutes, is amended to read:

604.19 License; fee; bond; certificate of deposit; penalty.—Unless the department refuses the application on one or more of the grounds provided in this section, it shall issue to an applicant, upon the payment of required ~~proper~~ fees and the execution and delivery of a bond or certificate of deposit as provided in this section, a state license entitling the applicant to conduct business as a dealer in agricultural products for a 1-year period to coincide with the effective period of the bond or certificate of deposit furnished by the applicant. During the 1-year period covered by a license, if the supporting surety bond or certificate of deposit is canceled for any reason, the license shall automatically expire on the date the surety bond or certificate of deposit terminates, unless an acceptable replacement is in effect before the date of termination so that continual coverage occurs for the remaining period of the license. A surety company shall give the department a 30-day written notice of cancellation by certified mail in order to cancel a bond. Cancellation of a bond or certificate of deposit shall not relieve a surety company or financial institution of liability for purchases or sales occurring while the bond or certificate of deposit was in effect. The license fee, which must be paid for the principal place of business for a dealer in agricultural products, shall be based upon the amount of the dealer's surety bond or certificate of deposit furnished by each dealer under the provisions of s. 604.20 and may not exceed \$500 ~~\$300~~. For each additional place in which the applicant desires to conduct business and which the applicant names in the application, the additional license fee must be paid but may not exceed \$100 ~~\$50~~ annually. Should any dealer in agricultural products fail, refuse, or neglect to apply and qualify for the renewal of a license on or before the date of expiration thereof, a penalty not to exceed \$100 ~~\$35~~ shall apply to and be added to the original license fee and shall be paid by the applicant before the renewal license may be issued. The department by rule shall prescribe fee amounts sufficient to fund ss. 604.15-604.34.

Section 5. Section 604.20, Florida Statutes, is amended to read:

604.20 Bond or certificate of deposit prerequisite; amount; form.—

(1) Before any license is issued, the applicant therefor shall make and deliver to the department a surety bond or certificate of deposit in the amount of at least ~~\$5,000~~ \$3,000 or in such greater amount as the department may determine, ~~not exceeding the maximum amount of business done or estimated to be done in any month by the applicant.~~ No bond or certificate of deposit may be in an amount less than \$5,000. The penal sum of the bond or certificate of deposit to be furnished to the department by an applicant for license as a dealer in agricultural products shall be in an amount equal to twice the dollar amount of agricultural products handled for a Florida producer or a producer's agent or representative, by purchase or otherwise, during the month of maximum transaction in such products during the preceding 12-month period. An applicant for license who has not handled agricultural products for a Florida producer or a producer's agent or representative, by purchase or otherwise, during the preceding 12-month period shall furnish a bond or certificate of deposit in an amount equal to twice the estimated dollar amount of such agricultural products to be handled, by purchase or otherwise, during the month of maximum transaction during the next immediate 12 months. Such bond or certificate of deposit shall be provided or assigned in the exact name in which the dealer will conduct business subject to the provisions of ss. 604.15-604.34. Such bond must be executed by a surety ~~company~~ corporation authorized to transact business in the state. For the purposes of ss. 604.19-604.21, the term "certificate of deposit" means a certificate of deposit at any recognized financial institution doing business in the United States. No certificate of deposit may be accepted in connection with an application for a dealer's license unless the issuing institution is properly insured by either the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. Such bond or any certificate of deposit assignment or agreement shall be upon a form prescribed or approved by the department and shall be conditioned to secure the faithful accounting for and payment, in the manner prescribed by s. 604.21(9), to producers or their agents or representatives of the proceeds of all agricultural products handled or purchased by such dealer and to secure payment to dealers who sell agricultural products to such dealer. Such bond or certificate of deposit assignment or agreement shall include terms binding the instrument to the Commissioner of Agriculture. A certificate of deposit shall be presented with an assignment of applicant's rights in the certificate in favor of the Commissioner of Agriculture on a form prescribed by the department and with a letter from the issuing institution acknowledging that the assignment has been properly recorded on the books of the issuing institution and will be honored by the issuing institution. Such assignment shall be irrevocable while the dealer's license is in effect and for an additional period of 6 months after the termination or expiration of the dealer's license provided no complaint is pending against the licensee. If a complaint is pending, the assignment shall remain in effect until all actions on the complaint have been finalized. The certificate of deposit may be released by the assignee of the financial institution to the licensee or the licensee's successors, assignee, or heirs if no claims are pending against the licensee before the department at the conclusion of 6 months after the last effective date of the license. No certificate of deposit shall be accepted that contains any provision that would give the issuing institution any prior rights or claim on the proceeds or principal of such

certificate of deposit. The department shall determine by rule the maximum amount of bond or certificate of deposit required of a dealer and whether an annual ~~or continuous~~ bond or certificate of deposit will be required.

(2) The amount of such bond or certificate of deposit shall, upon the order of the department at any time, be increased, if in its discretion the department finds such increase to be warranted by the dollar amount volume of agricultural products being handled, by purchase or otherwise, by the licensee. In the same manner, the amount of such bond or certificate of deposit may be decreased when a decrease in the dollar amount volume of products handled, by purchase or otherwise, warrants such decrease. These provisions apply to any bond or certificate of deposit, regardless of the anniversary date of its issuance, expiration, cancellation, or renewal.

(3) In order to effectuate the purposes of this section, the department or its agents may require from any applicant or licensee verified statements of the dollar amount volume of the applicant's or licensee's her or his business or may review the applicant's applicant or licensee's records at the applicant's or licensee's her or his place of business during normal business hours to determine the actual dollar amount of agricultural products handled, by purchase or otherwise for the purpose of determining her or his volume of business. The failure of a licensee to furnish such statement, to make such records available, or to make and deliver a new or additional bond or certificate of deposit shall be cause for suspension of the licensee's license. If the department finds such failure to be willful, the license may be revoked.

(4) The department may issue a conditional license to an applicant who is unable to provide a single bond or certificate of deposit in the full amount required by the calculation in subsection (1). The conditional license shall remain in effect for a 1-year period to coincide with the effective period of the bond or certificate of deposit furnished by the applicant. The applicant must provide at least the minimum \$5,000 bond or certificate of deposit as provided in subsection (1) together with one of the following:

(a) A notarized affidavit limiting the handling of agricultural products, by purchase or otherwise, during their largest month to a minimum of one-half the amount of the bond or certificate of deposit provided by the applicant;

(b) A notarized affidavit stating that any subject agricultural products, handled by purchase or otherwise, exceeding one-half of the amount of the bond or certificate of deposit will be handled under the exemption provisions set forth in s. 604.16(2); or

(c) A second bond or certificate of deposit in such an amount that, when the penal sum of the second bond or certificate of deposit is added to the penal sum of the first bond or certificate of deposit, the combined penal sum will equal twice the dollar amount of agricultural products handled for a Florida producer or a producer's agent or representative, by purchase or otherwise, during the month of maximum transaction in such products during the preceding 12-month period.

The department or its agents may require from any licensee who is issued a conditional license verified statements of the volume of the licensee's business or may review the licensee's records at the licensee's place of business during normal business hours to determine the licensee's adherence to the conditions of the license. The failure of a licensee to furnish such statement or to make such records available shall be cause for suspension of the licensee's conditional license. If the department finds such failure to be willful, the conditional license may be revoked.

Section 6. Section 604.21, Florida Statutes, is amended to read:

604.21 Complaint; investigation; hearing.—

(1)(a) Any person, partnership, corporation, or other business entity claiming herself or himself to be damaged by any breach of the conditions of a bond or certificate of deposit assignment or agreement given by a licensed dealer in agricultural products as hereinbefore provided may enter complaint thereof against the dealer and against the surety company, if any, to the department, which complaint shall be a written statement of the facts constituting the complaint. Such complaint shall include all agricultural products defined in s. 604.15(1), as well as any additional charges necessary to effectuate the sale unless these additional charges are already included in the total delivered price. Such complaint shall be filed within 6 months from the date of sale in instances involving direct sales or from the date on which the agricultural product was received by the dealer in agricultural products, as agent, to be sold for the producer. No complaint shall be filed pursuant to this section unless the transactions involved total at least \$500 \$250 and occurred in a single license year. Before a complaint can be processed, the complainant must provide the department with a \$50 filing fee. In the event the complainant is successful in proving the claim, the dealer in agricultural products shall reimburse the complainant for the \$50 filing fee as part of the settlement of the claim.

(b) To be considered timely filed, a complaint together with any required affidavits or notarizations must be received by the department within 6 months after the date of sale by electronic transmission, facsimile, regular mail, certified mail, or private delivery service. If the complaint is sent by a service other than electronic mail or facsimile, the mailing shall be post-marked or dated on or before the 6-month deadline to be accepted as timely filed.

(c) When multiple claims exist by a producer, a producer's agent or representative, or a dealer and the combined adjudicated amounts exceed the total amount of any bond and certificate of deposit, sales occurring 120 or more days after the oldest sale stated in any complaint filed by the same producer, producer's agent or representative, or dealer shall not be considered for payment from the proceeds of the bond or certificate of deposit in the event that the surety company or financial institution is called on to make payment.

(d) A person, partnership, corporation, or other business entity filing a complaint shall submit to the department the following documents: three completed complaint affidavits on a form provided by the department with

an original signature of an owner, partner, general partner, or corporate officer and an original notarization on each affidavit. If the complaint is filed by electronic transmission or facsimile, the original affidavits and original notarizations shall be filed with the department not later than the close of business of the tenth business day following the electronic transmission or facsimile filing. Attached to each complaint affidavit shall be copies of all documents to support the complaint. Supporting documents may be copies of invoices, bills of lading, packing or shipping documents, demand letters, or any other documentation to support the claim. In cases in which there are multiple invoices being claimed, a summary list of all claimed invoices must accompany the complaint.

(e) A dealer in agricultural products who is in compliance with ss. 604.15-604.34 may file a complaint with the department against another licensed dealer in agricultural products. However, payment from a bond or certificate of deposit to a dealer shall occur only after all claims of producers or producers' agents or representatives have been paid in full except as provided pursuant to paragraph (c).

(f) Filing a complaint with the department does not constitute an election of remedies when the same or similar complaint is filed in another venue.

(g) The surety company or financial institution shall be responsible for payment of properly established complaints filed against a dealer, notwithstanding the dealer's filing of a bankruptcy proceeding.

(2) Upon the filing of such complaint in the manner herein provided, the department shall investigate the matters complained of; whereupon, if, in the opinion of the department, the facts contained in the complaint warrant such action, the department shall serve notice of the filing of complaint ~~send~~ to the dealer against whom the complaint has been filed at the last address of record in question, by certified mail, notice of the filing of the complaint. Such notice shall be accompanied by a true copy of the complaint. A copy of such notice and complaint shall also be served ~~sent~~ to the surety company, if any, that provided the bond for the dealer, which surety company shall become party to the action. Such notice of the complaint shall inform the dealer of a reasonable time within which to answer the complaint by advising the department in writing that the allegations in the complaint are admitted or denied or that the complaint has been satisfied. Such notice shall also inform the dealer and the surety company or financial institution, ~~if any,~~ of a right to a hearing on the complaint, if requested.

(3) If the dealer files an answer admitting ~~admits~~ the allegations of the complaint and the department determines through inquiry of the complainant that the dealer has failed ~~but fails~~ to satisfy same within 21 days after receipt of the notice of the filing of a complaint by any party whose substantial interests are determined ~~the time fixed~~ by the department, the department shall thereupon order payment by the dealer of the amount found owed. In the event a party files a request that the complaint be held in abeyance pending a settlement agreement, the period of abeyance shall not exceed 6 months and successive periods of abeyance shall not be granted.

(4) If the dealer files an answer and , ~~in her or his answer,~~ denies the allegations of the complaint and waives a hearing, the department may order a hearing or enter an order based on the facts and circumstances set forth in the complaint and the respondent's answer thereto. If the department determines the complaint has not been established or fails to meet the provisions of this section, the order shall, among other things, dismiss the proceedings. If the department determines that the allegations of the complaint have been established, it shall enter its findings of fact accordingly and thereupon enter its order adjudicating the amount of indebtedness due to be paid by the dealer to the complainant.

(5) Any order entered by the department pursuant to this section shall become final and effective on the date filed with the department's agency clerk 14 days after issue if neither the department nor a party whose material interest is affected by the order requests a hearing on the order within 14 days following the date of issue.

(6) Any party whose substantial material interest is affected by a proceeding pursuant to this section shall be granted a hearing upon request as provided by chapter 120. Such hearing shall be conducted pursuant to chapter 120. The final order of the department, when issued pursuant to the recommended order of an administrative law judge, shall be final and effective on the date filed with the department's agency clerk. Any party to these proceedings adversely affected by the final order is entitled to seek review of the final order pursuant to s. 120.68 and the Florida Rules of Appellate Procedure. Should a complaint forwarded by the department to the Division of Administrative Hearings be settled prior to a hearing pursuant to chapter 120, the department shall issue a notice closing the complaint file upon receipt of the administrative law judge's order closing the complaint file, and the matter before the department shall be closed accordingly upon issuance.

(7) Any indebtedness set forth in a departmental order against a dealer shall be paid by the dealer within 15 days after such order becomes final.

(8) Upon the failure by a dealer to comply with an order of the department directing payment, the department shall, in instances involving bonds, call upon the surety company to pay over to the department out of the bond posted by the surety company for such dealer or, in instances involving certificates of deposit, call upon the financial institution issuing such certificate to pay over to the department out of the certificate under the conditions of the assignment or agreement, the amount called for in the order of the department, not exceeding the amount of the bond or the principal of the certificate of deposit. If the bond or the principal of the certificate of deposit is insufficient to pay in full the amount due each complainant as set forth in the order of the department, the department shall distribute the proceeds pro rata among such complainants. The proceeds from a bond or the principal from a certificate of deposit shall be paid directly to the department to be distributed by it to successful complainants, except the accrued interest on a certificate of deposit shall be paid to the dealer. Such funds shall be considered trust funds in the hands of the department for the exclusive purpose of satisfying duly established complaints. Payments made to the department pursuant to this section shall be considered payments made upon demand and may not be considered voluntary payments.

(9) Payments from a surety company or proceeds from a certificate of deposit shall be paid first to the producer or the producer's agent or representative in the amount of the producer's claims in full if such proceeds are sufficient for such purpose and, if not, then in pro rata shares to such producer or producer's agent or representative. If additional proceeds exist in the hands of the department after all claims of a producer and a producer's agent or representative have been paid in full, the balance of such proceeds shall be paid to claimants who are licensed dealers in agricultural products, either in whole or in pro rata portion, as the aggregate of their claims may bear to the amount of such additional proceeds.

~~(10)~~(9) Nothing in this section may be construed as relieving a surety company from responsibility for payment on properly established complaints against dealers involved in a federal bankruptcy proceeding and against whom the department is prohibited from entering an order.

~~(11)~~(10) Upon the failure of a surety company to comply with a demand for payment of the proceeds on a bond for a dealer in agricultural products, a complainant who is entitled to such proceeds, in total or in part, may, within a reasonable time, file in the circuit court a petition or complaint setting forth the administrative proceeding before the department and ask for final order of the court directing the surety company to pay the bond proceeds to the department for distribution to the complainants. If in such suit the complainant is successful and the court affirms the demand of the department for payment, the complainant shall be awarded all court costs incurred therein and also a reasonable attorney's fee to be fixed and collected as part of the costs of the suit. In lieu of such suit, the department may enforce its final agency action in the manner provided in s. 120.69.

Section 7. Section 604.22, Florida Statutes, is amended to read:

604.22 Dealers to keep records; contents.—

(1) Each licensee, while acting as agent for a producer, shall make and preserve for at least 1 year a record of each transaction, specifying the name and address of the producer for whom she or he acts as agent; the date of receipt; the kind, quality, and quantity of agricultural products received; the name and address of the purchaser of each package of agricultural products; the price for which each package was sold; the amount of any additional charges necessary to effectuate the sale; the amount and explanation of any adjustments given; and the net amount due from each purchaser. An account of sales shall be furnished each producer within 48 hours after the sale of such agricultural products unless otherwise agreed to in a written contract or verifiable oral agreement. Such account of sales shall clearly show the sale price of each lot of agricultural products sold; all adjustments to the original price, along with an explanation of such adjustments; and an itemized showing of all marketing costs deducted by the licensee, along with the net amount due the producer. The licensee shall make the payment to the producer within 5 days of the licensee's receipt of payment unless otherwise agreed to in a written contract or verifiable oral agreement.

(2)(a) The provisions of s. 604.16(2), (3), and (4) notwithstanding, any person, partnership, corporation, or other business entity, except a person

described in s. 604.16(1), who possesses and offers for sale agricultural products is required to possess and display, upon the request of any department representative or state, county, or local law enforcement officer, an invoice, bill of sale, manifest, or other written document showing the date of sale, the name and address of the seller, and the kind and quantity of products for all such agricultural products.

(b) Any person who violates the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 8. Section 604.23, Florida Statutes, is amended to read:

604.23 Examination of records, sales, accounts, books, and other documents.—The department shall have power to investigate, upon complaint of any interested person or upon its own initiative, the record of any dealer in agricultural products applicant or licensee, or any transaction involving the solicitation, receipt, sale or attempted sale of agricultural products, the failure to make proper and true accounts and settlements at prompt and regular intervals, the making of false statements as to condition, quality or quantity of goods received or while in storage, the making of false statements as to market conditions with intent to deceive, or the failure to make payment for goods received, or other alleged injurious transactions. For such purposes the department or its agents may examine, at the place or places of business of the dealer in agricultural products, the applicant or licensee, her or his ledgers, books of accounts, memoranda, and other documents which relate to the transaction involved, and may take testimony thereon under oath.

Section 9. Paragraphs (a) and (d) of subsection (1) of section 604.25, Florida Statutes, are amended to read:

604.25 Refusal to grant, or suspension or revocation of, license.—

(1) The department may decline to grant a license or may suspend or revoke a license already granted if the applicant or licensee has:

(a) Suffered a monetary money judgment ~~to be entered against the applicant or licensee her or him~~ upon which execution has been returned unsatisfied;

(d) Made any false statement or statements as to condition, quality, or quantity of goods received or held for sale when ~~she or he could have ascertained~~ the true condition, quality, or quantity could have been ascertained by reasonable inspection;

Section 10. Section 604.30, Florida Statutes, is amended to read:

604.30 Penalties; injunctive relief; administrative fines.—

(1) Any dealer in agricultural products who violates the provisions of ss. 604.15-604.34, or who interferes with an agent of the department in the enforcement of ss. 604.15-604.34, is guilty of a misdemeanor of the second

degree, punishable as provided in s. 775.082 or s. 775.083, and for a second or subsequent offense is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) In addition to the remedies provided in this chapter and notwithstanding the existence of any adequate remedy at law, when the department has probable cause to believe that any person, partnership, corporation, or other business entity has violated any provision of this chapter or any rule adopted pursuant thereto, the department may issue and deliver to such person, partnership, corporation, or other business entity a notice to cease and desist from such violation. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or writ of mandamus against any person, partnership, corporation, or other business entity who violates any provisions of such order, and such injunction shall be issued without bond.

(3)(a) In addition to the penalties provided in this section, the department may, after notice and hearing, impose a fine not exceeding \$2,500 ~~\$1,000~~ for the violation of any of the provisions of ss. 604.15-604.34 or the rules adopted thereunder against any dealer in agricultural products; such fine, when imposed and paid, shall be deposited by the department into the General Inspection Trust Fund.

(b) Whenever any administrative order has been made and entered by the department imposing a fine pursuant to this subsection, the order shall specify the amount of the fine and a time limit of no more than 15 days for the payment thereof. Upon the failure of the dealer involved to pay the fine within that time, the dealer's license as dealer in agricultural products shall be subject to suspension or revocation and a fine not to exceed \$100 ~~of \$50~~ a day shall be imposed on the dealer while the dealer ~~she or he~~ is in violation of such order.

Section 11. The sum of \$285,000 is appropriated from the General Inspection Trust Fund to the Department of Agriculture and Consumer Services, and four additional full-time equivalent positions are authorized, for the purpose of implementing this act during the 2005-2006 fiscal year.

Section 12. This act shall take effect October 1, 2005.

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.