

CHAPTER 4.1-28 VIDEO LIVESTOCK AUCTION MARKETS

4.1-28-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Commissioner" means the agriculture commissioner or the commissioner's designee.
2. "Internet livestock auction" means a place or establishment conducted or operated for compensation or profit as a public market where livestock located in this state is sold or offered for sale at a facility or website within or outside the state through the use of the internet.
3. "Livestock" means horses, mules, cattle, swine, sheep, farmed elk, and goats.
4. "Representative" means a dealer licensed under chapter 4.1-83 or a livestock auction market licensed under chapter 4.1-27.
5. "Video livestock auction market" means a place or establishment conducted or operated for compensation or profit as a public market where livestock located in this state is sold or offered for sale at a facility within or outside the state through the use of video at a public auction.

4.1-28-02. Video livestock auction market and internet auction - Authority to transact business.

A video livestock auction market or internet livestock auction market may not transact business in this state unless the market transacts business through a representative licensed under this chapter.

4.1-28-03. Application for license - Contents.

1. Before entering business with a video livestock auction market or internet livestock auction market, each representative must obtain a license to transact business with a video livestock auction market or internet livestock auction market by filing an application with the commissioner on a form prescribed by the commissioner. A license issued under this section expires June thirtieth after issuance and must be renewed by filing of a renewal application at the time and on a form prescribed by the commissioner. The application must show:
 - a. The nature of the business applying for a license;
 - b. The name of the representative applying for the license on behalf of the business;
 - c. The name and address of the video livestock auction market or internet livestock auction market through which the applicant proposes to transact business; and
 - d. Any other information the commissioner may require.
2. The application for a license or for a renewal of a license must include:
 - a. A license fee of one hundred dollars;
 - b. Evidence the commissioner may require showing the video livestock auction market or internet livestock auction market the representative proposes to do business through is financially responsible and bonded to transact such business;
 - c. A schedule of the fees and commissions that will be charged to owners, sellers, or their agents; and
 - d. A copy of the contract between the representative and the video livestock auction market or internet livestock auction market through which the representative proposes to transact business. The contract must:
 - (1) Contain a provision authorizing the commissioner to have access to the books; papers; accounts; financial records held by financial institutions, accountants, or other sources;
 - (2) Contain other documents, as determined by the commissioner, relating to the activities of the video livestock auction market or internet livestock auction market; and
 - (3) Provide that the video livestock auction market or internet livestock auction market and its representative are jointly and severally liable, with the right of

contribution, for all business transacted within this state by the representative on behalf of the video livestock auction market or internet livestock auction market.

3. If the contract between the representative and the video livestock auction market or internet livestock auction market is terminated, rescinded, breached, or otherwise materially altered, the representative and the video livestock auction market or internet livestock auction market shall immediately notify the commissioner. Failure to notify the commissioner of termination, rescission, breach, or material alteration of the contract between the representative and the video livestock auction market or internet livestock auction market is deemed to be a failure to keep and maintain suitable records with the department and is deemed to be a false entry or statement of fact in an application filed with the department.

4.1-28-04. Use of fees - Grounds for refusal or revocation of license - Review by court.

All fees collected by the commissioner under this chapter must be deposited in the general fund of the state treasury. A license may be refused or revoked for any reason specified in subdivision c or d of subsection 2 of section 4.1-83-10 or section 4.1-83-15, or if the contract required by this chapter between the representative and the video livestock auction market or internet livestock auction market is extinguished, rescinded, or canceled, or is breached by either party. The action of the commissioner in denying an application for a license or revoking or suspending a license may be appealed as provided in section 4.1-27-20.

4.1-28-05. Inspection of livestock.

Before any livestock sold pursuant to this chapter is delivered, whether interstate or intrastate, the livestock must be inspected for health by a veterinarian licensed in this state and approved by the state board of animal health and, in the case of cattle, for brands by a trained brand inspector, acting under rules adopted by the North Dakota stockmen's association and the state board of animal health. The inspection must take place at the time of the initial delivery of the livestock. If livestock is destined to be shipped interstate, the authorized veterinarian shall furnish to each purchaser a certificate showing that the inspection has been made and treatment administered in accordance with the requirements of the state of destination. The services and duties of the veterinary inspector are under the supervision of the state board of animal health. Fees for the veterinary inspection must be an amount agreed upon by the representative and the veterinarian. All fees for veterinary inspection, treatment, and services must be collected by the representative and paid to the inspector.

4.1-28-06. Method of payment.

Payment to the seller for livestock sold through a video livestock auction market or internet livestock auction market must be made in United States currency, with an instrument payable on demand drawn on a financial institution chartered and regulated by a state or the federal government, or by wire transfer or other electronic form of payment from a financial institution chartered and regulated by a state or the federal government.

4.1-28-07. Sale of livestock by weight - Scales to be inspected.

Notwithstanding section 36-21-15, all livestock sold by weight through a video livestock auction market or internet livestock auction market must be sold based on the weight of the livestock on the day of delivery. All livestock sold by weight must be weighed on scales that have been tested and inspected by the department of weights and measures in the manner provided by law.