

AGRICULTURE CODE

TITLE 6. PRODUCTION, PROCESSING, AND SALE OF ANIMAL PRODUCTS

SUBTITLE B. LIVESTOCK

CHAPTER 147. LIVESTOCK COMMISSION MERCHANTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 147.001. DEFINITIONS. In this chapter:

(1) "Commission merchant" means a livestock commission merchant or a livestock auction commission merchant.

(2) Repealed by Acts 2003, 78th Leg., ch. 604, Sec. 5. Acts 1981, 67th Leg., p. 1378, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 2003, 78th Leg., ch. 604, Sec. 5, eff. Sept. 1, 2003.

Sec. 147.002. COMMISSION MERCHANTS. (a) A person is subject to this chapter as a livestock commission merchant if the person:

(1) pursues the business of selling livestock on consignment for a commission or other charges;

(2) solicits consignment of livestock as a livestock commission merchant; or

(3) advertises or holds himself or herself out to be a livestock commission merchant.

(b) A person is subject to this chapter as a livestock auction commission merchant if the person:

(1) pursues the business of selling livestock at auction on consignment for a commission or other charges;

(2) solicits consignment of livestock as a livestock auction commission merchant; or

(3) advertises or holds himself or herself out to be a livestock auction commission merchant.

Acts 1981, 67th Leg., p. 1378, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.003. EXCEPTIONS. (a) A person pursuing the business of selling mules, horses, jacks, or jennets in a county with a population of not less than 1.8 million nor more than 1.9

million is not subject to this chapter as a livestock auction commission merchant.

(b) Sections [147.004](#), [147.022\(a\)\(3\)](#), [147.022\(b\)](#), [147.023](#), [147.024](#), and [147.041\(a\)](#) do not apply to a livestock auction commission or company that is subject to and regulated by the United States Department of Agriculture under the Packers and Stock Yards Act (7 U.S.C. Sec. 181 et seq.).

Acts 1981, 67th Leg., p. 1378, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 55, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 1, eff. September 1, 2011.

Sec. 147.004. REMITTANCE OF SALE PROCEEDS. (a) Within 48 hours after the sale of consigned livestock, a commission merchant shall:

(1) remit the net proceeds of the sale to each person entitled to receive those proceeds or to another person to whom the person directs that the proceeds be paid; or

(2) if requested by a person, deposit the proceeds due that person to the credit of that person in a state or national bank in the city or county of the commission merchant's principal place of business.

(b) In calculating the time allowed for remittance of proceeds under this section by a livestock commission merchant, Sundays, holidays, and the day of sale are excluded. In calculating the time allowed for remittance of proceeds under this section by a livestock auction commission merchant, Sundays, holidays, and the day of sale are included.

Acts 1981, 67th Leg., p. 1379, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.005. DEPOSIT OF PROCEEDS IN DISPUTE. (a) If the proceeds of a sale of livestock by a commission merchant become involved in a dispute between contending claimants, or if the commission merchant is notified that a person other than the person who consigned the livestock asserts a right to the proceeds, the

commission merchant shall deposit the net proceeds of the sale in a state or national bank in the city or county of the commission merchant's principal place of business.

(b) The commission merchant shall promptly notify all interested parties of the deposit of proceeds in a bank under Subsection (a) of this section.

(c) Following the deposit of the proceeds and the giving of notice under this section, neither the commission merchant nor the bond of the commission merchant is liable for those funds.

Acts 1981, 67th Leg., p. 1379, ch. 388, Sec. 1, eff. Sept. 1, 1981.

#### SUBCHAPTER B. BOND

Sec. 147.021. BOND REQUIRED. Before engaging in business as a commission merchant, a person shall file a bond with the county judge of the county of the commission merchant's principal place of business.

Acts 1981, 67th Leg., p. 1379, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.022. TERMS AND CONDITIONS OF BOND. (a) Each bond filed under this chapter must be:

(1) signed by a solvent surety company authorized to do business in this state and having a paid-up capital of at least \$500,000;

(2) payable to the county judge of the county of the commission merchant's principal office or place of business as trustee for all persons who may be entitled to recover under the bond; and

(3) conditioned that the commission merchant will comply with the requirements of this chapter and will well and truly perform all agreements entered into with a consignor or owner of livestock, or with a person holding a lien on livestock, in relation to receiving, handling, and selling the livestock and remitting the net proceeds of a sale.

(b) Each bond must contain a provision requiring that, in order to terminate a bond, the terminating party must give at least 10 days' written notice to the county judge prior to the

termination.

Acts 1981, 67th Leg., p. 1379, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.023. AMOUNT OF BOND. (a) Except as otherwise provided by this section, the amount of each commission merchant's bond must be equal to the nearest multiple of \$1,000 that is more than twice the average amount of the commission merchant's sales and purchases of livestock on a business day during the preceding year or portion of a year in which the person engaged in business as a commission merchant. The average amount of sales and purchases for one day is determined by dividing the total sales and purchases for the preceding year by 308, regardless of the actual number of business days.

(b) A bond may not be in an amount less than \$2,000.

(c) If the amount equal to twice the average sales and purchases of a commission merchant on a business day exceeds \$50,000, the bond must be in an amount equal to \$50,000 plus 10 percent of the amount of sales and purchases in excess of \$50,000.

(d) If prior to filing bond a person has no previous sales and purchases on which to determine the amount of the bond, the bond must be in an amount adequate to cover the probable volume of business to be done by that person, as determined by the county judge of the county of the commission merchant's principal place of business. After that person has engaged in business as a commission merchant for one year, the amount of the bond shall be determined as otherwise provided by this section.

(e) If in the judgment of the county judge the condition of the business of a livestock commission merchant renders the bond inadequate, the county judge shall notify the livestock commission merchant and the commission merchant shall increase the bond to an amount determined adequate by the county judge.

Acts 1981, 67th Leg., p. 1380, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.024. MORE THAN ONE PERSON UNDER SINGLE BOND. (a) If two or more commission merchants are employees or agents solely for one person, they may be covered by a single bond in an amount determined under Section [147.023](#) of this code on the basis of

combined purchases and sales.

(b) Two or more commission merchants not subject to Subsection (a) of this section may be covered under a single bond in an amount not less than the aggregate amount of individual bonds required under Section 147.023 of this code.

Acts 1981, 67th Leg., p. 1380, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.025. APPROVAL OF BOND BY COUNTY JUDGE. (a) The county judge shall carefully examine each commission merchant's bond and shall approve a bond if satisfied that it conforms to the requirements of this subchapter.

(b) Before approving the bond of a livestock commission merchant, the county judge shall obtain certified data relating to the surety company from the commissioner of insurance.

Acts 1981, 67th Leg., p. 1380, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.026. RECORDING OF BOND AND STATEMENT OF SALES. (a) The county judge shall file each commission merchant's bond with the county clerk, who shall record the bond at length in records maintained for that purpose labeled "Bonds of Livestock Commission Merchants" or "Bonds of Livestock Auction Commission Merchants," as applicable. The records must be properly indexed.

(b) If the person filing the bond is a livestock commission merchant, the person shall also file a sworn statement with the county judge setting forth the average daily sales of the person for the preceding year. The county clerk shall record the statement in the same manner as the bond.

(c) The county clerk shall file the original bond and sworn statement of a livestock commission merchant in the clerk's office.

Acts 1981, 67th Leg., p. 1381, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 23, eff. Sept. 1, 1989.

Sec. 147.027. COMMISSION MERCHANT'S COPY OF BOND. As soon as practicable after the recording of a bond, a commission merchant shall request, and the county clerk shall provide, a certified copy of the bond. The commission merchant shall post that copy in a

conspicuous place in the main office of the commission merchant's principal place of business.

Acts 1981, 67th Leg., p. 1381, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.028. SUIT ON BOND. (a) Any person damaged by breach of a condition of a bond may bring suit and recover under the bond. The suit shall be brought in the county in which the bond is filed.

(b) A bond is not void on first recovery and may be sued on until the total amount is exhausted. If a bond is reduced by one-half, the commission merchant shall file a new bond, conditioned as provided by this subchapter for the original bond, in an amount necessary to restore the bond to the amount required by Section 147.023 of this code.

Acts 1981, 67th Leg., p. 1381, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.029. INSOLVENCY OF SURETY. If the county judge discovers that the surety on a bond is insolvent or determines that the surety is financially unable to make the bond sufficient, the county judge shall notify the commission merchant and the commission merchant shall execute a new bond in accordance with the requirements for the original bond.

Acts 1981, 67th Leg., p. 1381, ch. 388, Sec. 1, eff. Sept. 1, 1981.

#### SUBCHAPTER C. RECORDS

Sec. 147.041. RECORD OF SALES. (a) Each livestock auction commission merchant shall keep a record of all livestock sold at auction. The record must give an accurate description of the livestock, including:

- (1) the color;
- (2) the probable age;
- (3) any marks and brands; and
- (4) the location of marks and brands.

(b) Records maintained under Subsection (a) of this section are subject to inspection by any citizen of this state.

(c) Each livestock auction commission merchant shall file a

quarterly report of all livestock sold with the commissioners court of the county in which the commission merchant transacts business.

The report must include:

- (1) a description of the livestock;
- (2) the name and address of the consignor or the person purporting to own the livestock; and
- (3) the name and address of the purchaser.

Acts 1981, 67th Leg., p. 1381, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.042. RECORD OF TRANSPORTATION. (a) Each livestock auction commission merchant shall keep a record of the motor vehicle and trailer or semitrailer on which livestock is transported to the place of sale. The record must be in a form prescribed by the Texas Animal Health Commission and must show the name of the owner of the livestock, the name of the owner of the vehicle, and the name, make, and license plate number of the vehicle. The commission merchant shall prepare the record and make it available for public inspection within 24 hours after receipt of the livestock.

(b) Each livestock auction commission merchant shall keep a record of the motor vehicle and trailer or semitrailer on which livestock is transported from the place of sale. The record must be in a form prescribed by the Texas Animal Health Commission and must show the name and address of the purchaser of the livestock and the name and address of the owner of the vehicle. The commission merchant shall prepare the record and make it available immediately after the livestock is sold and before the livestock is removed from the place of sale.

(c) The livestock auction commission merchant shall furnish a copy of the record under Subsection (b) of this section to the driver of the vehicle transporting the livestock from the place of sale. The driver shall keep that record in the driver's possession while transporting the livestock and shall exhibit the record on demand of any peace officer.

(d) Each livestock auction commission merchant shall retain records kept under this section for at least one year after the date of sale. The commission merchant shall keep the records open for

public inspection at reasonable hours.

(e) This section does not apply to a private sale in which the livestock of only one person is offered for sale.

Acts 1981, 67th Leg., p. 1382, ch. 388, Sec. 1, eff. Sept. 1, 1981.

#### SUBCHAPTER D. PENALTIES

Sec. 147.061. FAILURE TO FILE OR MAINTAIN BOND. (a) A person commits an offense if the person:

(1) advertises or solicits business, or engages in business, as a livestock commission merchant without filing a bond in accordance with this chapter; or

(2) as a livestock commission merchant, fails to maintain a bond in full force and effect in accordance with this chapter.

(b) A person commits an offense if the person:

(1) advertises or solicits business, or engages in business, as a livestock auction commission merchant without filing a bond in accordance with this chapter; or

(2) as a livestock auction commission merchant, fails to maintain a bond in full force and effect in accordance with this chapter.

(c) An offense under Subsection (a) is a felony punishable by:

(1) a fine of not less than \$500 nor more than \$5,000;

(2) imprisonment in the Texas Department of Criminal Justice for not less than one nor more than two years; or

(3) both fine and imprisonment under this subsection.

(d) An offense under Subsection (b) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$25 nor more than \$1,000;

(2) confinement in county jail for not more than 30 days; or

(3) both fine and confinement under this subsection.

Acts 1981, 67th Leg., p. 1382, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.003,



eff. September 1, 2009.

Sec. 147.062. FAILURE TO POST COPY OF BOND. (a) A person commits an offense if the person fails to post a copy of the person's bond in accordance with Section 147.027 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$100.

(c) A person commits a separate offense each day that the copy is not posted.

Acts 1981, 67th Leg., p. 1383, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 147.063. FAILURE TO REMIT PROCEEDS OF SALE. (a) A person commits an offense if, as a livestock commission merchant, the person intentionally fails and refuses to remit the net proceeds of a sale of livestock in accordance with Section 147.004 of this code.

(b) A person commits an offense if, as a livestock auction commission merchant, the person intentionally fails and refuses to remit the net proceeds of a sale of livestock in accordance with Section 147.004 of this code.

(c) An offense under Subsection (a) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$100 nor more than \$1,000;

(2) confinement in county jail for not less than 1 month nor more than 12 months; or

(3) both fine and confinement under this subsection.

(d) An offense under Subsection (b) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$25 nor more than \$100;

(2) confinement in county jail for not more than 30 days; or

(3) both fine and confinement under this subsection.

Acts 1981, 67th Leg., p. 1383, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1983, 68th Leg., p. 995, ch. 235, art. 1, Sec. 5, eff. Sept. 1, 1983.

Sec. 147.064. APPROPRIATION OF PROCEEDS OF SALE. (a) A

person commits an offense if, as a livestock commission merchant, the person appropriates or uses any portion of the net proceeds of the sale of livestock for a purpose other than remitting the proceeds under Section 147.004 of this code.

(b) A person commits an offense if, as a livestock auction commission merchant, the person appropriates or uses any portion of the net proceeds of the sale of livestock for a purpose other than remitting the proceeds under Section 147.004 of this code.

(c) An offense under Subsection (a) is a felony punishable by imprisonment in the Texas Department of Criminal Justice for not less than two years nor more than four years.

(d) An offense under Subsection (b) of this section is a misdemeanor punishable by:

(1) a fine of not more than \$1,000; and

(2) confinement in county jail for not more than one year.

Acts 1981, 67th Leg., p. 1383, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.004, eff. September 1, 2009.

Sec. 147.065. FAILURE TO KEEP OR EXHIBIT TRANSPORTATION RECORDS. (a) A person commits an offense if the person violates Section 147.042 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$200.

Acts 1981, 67th Leg., p. 1384, ch. 388, Sec. 1, eff. Sept. 1, 1981.