

Assembly Bill No. 181—Assemblymen Goicoechea,  
Carpenter, Grady, Atkinson and Marvel

CHAPTER.....

AN ACT relating to agriculture; removing the requirement that a person obtain a license to act as a cash buyer or as an agent of a cash buyer of farm products or livestock; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a person who acts as a livestock or farm product dealer, farm product broker, commission merchant, cash buyer of farm products or livestock, and agent for a commission merchant, dealer, broker or cash buyer to obtain a license from the State Department of Agriculture. (NRS 576.020)

This bill removes the licensure requirement for cash buyers and agents of cash buyers of farm products or livestock by expressly providing that such cash buyers and agents are not required to obtain a license from the Department.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** NRS 576.0115 is hereby amended to read as follows:

576.0115 “Agent” means any person who, on behalf of any commission merchant, dealer ~~[, broker or cash buyer,]~~ *or broker*, receives, contracts for or solicits the sale, exchange or transfer of farm products or livestock from a producer thereof, or who negotiates the consignment or purchase of any farm product or livestock on behalf of any commission merchant, dealer ~~[, broker or cash buyer,]~~ *or broker*.

**Sec. 2.** NRS 576.020 is hereby amended to read as follows:

576.020 *1.* A person shall not act as a broker, dealer, commission merchant ~~[, cash buyer]~~ or agent without having obtained a license from the Department as provided in this chapter.

*2. A cash buyer or an agent of a cash buyer is not required to obtain a license pursuant to this chapter before acting as a cash buyer or an agent of a cash buyer.*

**Sec. 3.** NRS 576.030 is hereby amended to read as follows:

576.030 *1.* Every person, before acting as a broker, dealer, commission merchant ~~[, cash buyer]~~ or agent, shall file an application with the Department for a license to transact such business. Separate applications must be filed for each class of business.

*2.* The application must be on a form prescribed and furnished by the Department and must set forth:

(a) The full name of the person applying for the license. If the applicant is a firm, exchange, association or corporation, the full

name of each member of the firm, or the names of the officers of the exchange, association or corporation must be given in the application.

(b) If the applicant is a natural person, the social security number of the applicant.

(c) The principal business address of the applicant in this State and elsewhere.

(d) The name of the person authorized to accept service of summons and legal notice of all kinds for the applicant.

(e) The names and addresses of all persons by whom the applicant has been employed for a period of 3 years immediately preceding the making of the application.

(f) A complete statement of the applicant's business activity for the 3 years immediately preceding the making of the application which is not covered by paragraph (e).

(g) A statement of whether the applicant has ever been arrested for any crime other than a traffic violation punishable by a fine of \$25 or less and, if so, when and where, the nature of the crime charged, the disposition of the charge, the title and address of the police officers having custody of the record of arrest, and the names and locations of all the courts before which any proceedings in connection with the arrest took place.

(h) A statement of whether the applicant has ever been a party in a civil suit and, if so, the nature of the suit, whether the applicant was the plaintiff or the defendant, the disposition of the suit, and, if the applicant was the defendant and lost, whether there is a judgment or any portion thereof which remains unpaid.

(i) The county or counties in which the applicant proposes to engage in business.

(j) The class or classes of farm products the applicant proposes to handle.

(k) Such other information as the Department may reasonably require.

3. In addition to the general requirements applicable to all classes of applications as set forth in subsection 2, the following requirements apply to the class of applications specified in this subsection:

(a) Commission merchants. Each application must include a complete schedule of commissions and an itemized listing of all charges for all services. Any services rendered for which charges are made, if not listed in the schedule on the application, must be rendered on a strictly cost basis.

(b) Agents. Each application must be in the same form as an application for a license as a broker, dealer or commission merchant, and must include the name and address of the broker, dealer ~~or~~ **or** commission merchant ~~for cash buyer~~ represented or

sought to be represented by the agent, and the written endorsement or nomination of the broker, dealer ~~{}~~ or commission merchant . ~~{or cash buyer.}~~

4. The application must be accompanied by an executed instrument whereby the applicant:

(a) Appoints and constitutes the Director and his successor or successors in office the true and lawful attorney of the applicant upon whom all lawful process in any action or legal proceeding against the applicant arising in this State from a transaction under the provisions of this chapter may be served; and

(b) Agrees that any lawful process against him which may be served upon his attorney as provided in this subsection is of the same force and validity as if served upon him and that the authority thereof continues in force irrevocably as long as any liability of the applicant in the State remains outstanding.

**Sec. 4.** NRS 576.030 is hereby amended to read as follows:

576.030 1. Every person, before acting as a broker, dealer, commission merchant ~~{, cash buyer}~~ or agent, shall file an application with the Department for a license to transact such business. Separate applications must be filed for each class of business.

2. The application must be on a form prescribed and furnished by the Department and must set forth:

(a) The full name of the person applying for the license. If the applicant is a firm, exchange, association or corporation, the full name of each member of the firm, or the names of the officers of the exchange, association or corporation must be given in the application.

(b) The principal business address of the applicant in this State and elsewhere.

(c) The name of the person authorized to accept service of summons and legal notice of all kinds for the applicant.

(d) The names and addresses of all persons by whom the applicant has been employed for a period of 3 years immediately preceding the making of the application.

(e) A complete statement of the applicant's business activity for the 3 years immediately preceding the making of the application which is not covered by paragraph (d).

(f) A statement of whether the applicant has ever been arrested for any crime other than a traffic violation punishable by a fine of \$25 or less and, if so, when and where, the nature of the crime charged, the disposition of the charge, the title and address of the police officers having custody of the record of arrest, and the names and locations of all the courts before which any proceedings in connection with the arrest took place.

(g) A statement of whether the applicant has ever been a party in a civil suit and, if so, the nature of the suit, whether the applicant was the plaintiff or the defendant, the disposition of the suit, and, if the applicant was the defendant and lost, whether there is a judgment or any portion thereof which remains unpaid.

(h) The county or counties in which the applicant proposes to engage in business.

(i) The class or classes of farm products the applicant proposes to handle.

(j) Such other information as the Department may reasonably require.

3. In addition to the general requirements applicable to all classes of applications as set forth in subsection 2, the following requirements apply to the class of applications specified in of this subsection:

(a) Commission merchants. Each application must include a complete schedule of commissions and an itemized listing of all charges for all services. Any services rendered for which charges are made, if not listed in the schedule on the application, must be rendered on a strictly cost basis.

(b) Agents. Each application must be in the same form as an application for a license as a broker, dealer or commission merchant, and must include the name and address of the broker, dealer ~~{ }~~ or commission merchant ~~{or-cash-buyer}~~ represented or sought to be represented by the agent, and the written endorsement or nomination of the broker, dealer ~~{ }~~ or commission merchant . ~~{or cash-buyer.}~~

4. The application must be accompanied by an executed instrument whereby the applicant:

(a) Appoints and constitutes the Director and his successor or successors in office the true and lawful attorney of the applicant upon whom all lawful process in any action or legal proceeding against the applicant arising in this State from a transaction under the provisions of this chapter may be served; and

(b) Agrees that any lawful process against him which may be served upon his attorney as provided in this subsection is of the same force and validity as if served upon him and that the authority thereof continues in force irrevocably as long as any liability of the applicant in the State remains outstanding.

**Sec. 5.** NRS 576.032 is hereby amended to read as follows:

576.032 1. A natural person who applies for the issuance or renewal of a license as a broker, dealer, commission merchant ~~{ }~~ ~~cash-buyer}~~ or agent shall submit to the Department the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. A license as a broker, dealer, commission merchant ~~[-cash buyer]~~ or agent may not be issued or renewed by the Department if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

**Sec. 6.** NRS 576.035 is hereby amended to read as follows:

576.035 1. The Department shall require the applicant for a license as a broker, dealer, commission merchant ~~[-cash buyer]~~ or agent to make a showing of character, responsibility and good faith in seeking to carry on the business stated in the application, and may make investigations, hold hearings and make determinations regarding those matters.

2. If the applicant is a corporation or partnership, it shall satisfy the Department of the character, responsibility and good faith of all persons connected with it in a responsible or managing position, including the manager, superintendent, officer and director.

3. Failure of any person to satisfy the Department of his character, responsibility or good faith may be considered by the Department as adverse to a showing of such qualifications and is sufficient grounds for the denial of an application for a license or of the renewal thereof. A previous conviction of a felony, previous bankruptcy, voluntary or involuntary, or previous violation of this chapter may be considered by the Department as adverse to a showing of such character, responsibility or good faith on the part of the applicant.

4. Any person adjudged a bankrupt, or any person against whose bondsman or bondsmen or deposit in lieu of bond a claim has been collected by a court order, who has not made full settlement

with all producer-creditors, may not be licensed by the Department for 3 years after the date of the adjudication or collection.

5. The Department may refuse to accept a new application for a license by an applicant rejected pursuant to this section for a period not exceeding 3 years after the date of rejection of the first application.

**Sec. 7.** NRS 576.050 is hereby amended to read as follows:

576.050 Each applicant for a license as a broker, dealer, commission merchant ~~[-, cash-buyer]~~ or agent shall pay to the Department an annual license fee established by regulation of the State Board of Agriculture.

**Sec. 8.** NRS 576.080 is hereby amended to read as follows:

576.080 Licenses must be in such form as the Department may prescribe, must be under the seal of the Department and must set forth:

1. The name and address of the dealer, broker, commission merchant ~~[-, cash-buyer]~~ or agent.
2. The period of the license.
3. Such other information as the Department reasonably may require.
4. The amount of the bond, deposit or other security required by NRS 576.040.

**Sec. 9.** NRS 576.095 is hereby amended to read as follows:

576.095 Any person who has applied for and obtained a license as a dealer, broker ~~[-, cash-buyer]~~ or commission merchant as provided in this chapter may apply for and secure a license in any other classification or classifications without payment of further fee upon complying with the provisions of this chapter relating to the licensing of the other classifications involved.

**Sec. 10.** NRS 576.100 is hereby amended to read as follows:

576.100 1. An agent shall not act for any dealer, broker ~~[-, cash-buyer]~~ or commission merchant unless:

(a) The dealer, broker ~~[-, cash-buyer]~~ or commission merchant is licensed and has designated the agent to act in his behalf; and

(b) The Department has been notified in writing and has approved the appointment of the agent.

2. The dealer, broker ~~[-, cash-buyer]~~ or commission merchant is accountable and responsible for contracts made by his agents.

3. An agent must, before approval by the Department, file an application with the Department pursuant to paragraph (b) of subsection 3 of NRS 576.030.

**Sec. 11.** NRS 576.121 is hereby amended to read as follows:

576.121 1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a

broker, dealer, commission merchant ~~[-cash-buyer]~~ or agent, the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a license as a broker, dealer, commission merchant ~~[-cash-buyer]~~ or agent that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

**Sec. 12.** NRS 576.127 is hereby amended to read as follows:

576.127 1. Each dealer ~~[-]~~ **and** commission merchant ~~and cash-buyer]~~ operating a motor vehicle in the conduct of his licensed business shall carry on the motor vehicle a manifest on a form to be prescribed or approved by the Department showing:

(a) A description of the cargo on the motor vehicle.

(b) The brand inspection certificate number for any livestock being transported.

(c) Where and from whom the cargo was purchased.

(d) The weight or measure upon which the purchase was made and, if purchased upon weight, where and by whom weighed and the weight obtained at the weighing.

2. The manifest must be executed in triplicate. One copy must be given to the consignor or seller. One copy must be retained by the licensee, and the original, signed by the licensee, must be transmitted immediately to the Department.

3. Any false statements included on a manifest concerning the nature, quantity, weight, count, grade, quality or any other essential feature of the cargo constitute grounds for suspension or cancellation of the licensee's license issued pursuant to the provisions of this chapter.

**Sec. 13.** NRS 576.150 is hereby amended to read as follows:

576.150 1. Except as otherwise provided by a specific statute, a person who acts as a dealer, broker, commission merchant ~~[-cash-buyer]~~ or agent without a license therefor as required by the provisions of this chapter, or who violates any other provision of this chapter, or any of the regulations lawfully adopted pursuant to provisions of this chapter, is guilty of a misdemeanor. If the violation relates to the failure to make payment for farm products,

an intent to defraud must be proven before a misdemeanor or other penalty may be imposed.

2. Any prosecution brought pursuant to this chapter may be brought in any county of this State in which the defendant or any one of the defendants resides, or in which the unlawful act was committed, or in which the defendant or any one of the defendants has his principal place of business.

3. In addition to any criminal penalty imposed pursuant to, or any remedy provided by, this chapter, the Director, after notice and a hearing in an administrative proceeding, may issue an order against any person who has violated any provision of this chapter or any regulation adopted pursuant to this chapter imposing a civil penalty of not more than \$5,000 for each violation. Any civil penalty collected pursuant to this subsection must be deposited in the State General Fund.

**Sec. 14.** 1. This section and sections 2, 3 and 5 to 13, inclusive, of this act become effective on July 1, 2005.

2. Sections 3, 5 and 11 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

3. Section 4 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.