

**New Jersey Statutes Annotated**  
**Commission Merchants, Dealers and Brokers, and their Agents**

**4:11-1 Definitions.**

As used in this article:

"Agent" means any person buying, receiving, soliciting or negotiating the sale of cattle, sheep, horse or swine for or on behalf of any dealer or broker.

"Broker" means any person engaged in the business of soliciting or negotiating the sale, resale, exchange or shipment of cattle, sheep, horse or swine.

"Cattle" means all dairy, feeding, beef or breeding animals of bovine genus.

"Sheep" means all animals of ovine genus.

"Swine" means all animals of porcine genus.

"Dealer" means any person engaged in the business of buying, receiving, selling, exchanging, soliciting or negotiating the sale, resale, exchange or shipment of any cattle, sheep, horse or swine.

"Secretary" means the Secretary of Agriculture.

"Board" means the State Board of Agriculture.

"Horse" means all animals of equus genus.

Amended by L.1949, c.209, p. 681, § 1; L.1966, c.27, § 1, eff. July 1, 1966; L. 1998, c.105, § 4, eff. Sept. 14, 1998

**4:11-2 Article inapplicable to certain classes of associations and persons**

This article shall not apply:

a. To any person who receives, buys, exchanges or ships cattle, sheep, horses or swine exclusively for slaughter;

b. To any person who is permanently discontinuing the business of dairying, breeding or feeding cattle, sheep, horses or swine; or

c. To any person who purchases, receives or exchanges cattle, sheep, horses or swine for the sole purpose of increasing or improving his herd or flock.

Amended by L.1949, c.209, p. 682, § 2; L.1966, c.27, § 2, eff. July 1, 1966; L.1998, c.105, § 5, eff. Sept. 14, 1998.

**4:11-3. Necessity of license; mode of designating agents**

No person shall engage in or carry on the business of dealer or broker, as defined in section 4:11-1 of this title, or act as agent for a dealer or broker unless licensed as provided in this article.

No agent shall act for any dealer or broker unless such dealer or broker is licensed, has designated such agent to act in his behalf, has notified the secretary of such appointment either in his application for license or by an official notice in writing, and has requested the secretary to issue to such agent an agent's license. The dealer or broker shall be accountable and responsible for the acts of such agents.

#### **4:11-4 Application for license**

A person, before engaging in the business referred to in section 4:11-3 of this Title shall, annually on or before June 1, file an application for a license with the secretary on a form prescribed by him and pay an application fee of \$30.00 which shall not be returned if the license is not granted.

The application shall state the nature of the business, the breed or breeds of cattle, sheep, horses or swine which the applicant proposes to handle, the name of the person applying for the license, and, if the applicant be a firm, association, partnership or corporation, the full name of each member of such firm, association, partnership or the names of the officers of the corporation, and the name of the agent or agents of the applicant, the municipality and the post-office address at which the business is to be conducted, and such other facts as the secretary shall prescribe.

The applicant shall further satisfy the secretary of his or its character, financial responsibility and good faith in seeking to engage in the business.

Amended by L.1949, c. 209, p. 682, § 3; L.1966, c. 27, § 4, eff. July 1, 1966; L.1971, c.235, § 2, eff. June 23, 1971; L.1998, c.105, § 6, eff. Sept. 14, 1998.

#### **4:11-5 Issuance and terms of license.**

Upon compliance by the applicant with the terms of section 4:11-4 of this Title, the secretary shall, subject to the provisions of this article, issue a license entitling the applicant or his agent to conduct the business of buying or receiving cattle, sheep, horses or swine, or receiving, selling, exchanging, soliciting or negotiating the sale, resale, exchange or shipment of cattle, sheep, horses or swine at the place named in the application, until June 30 next following. If application is made and an application fee of \$15.00 is paid subsequent to July 1 in any license year, the license shall run until July 1 next following.

Amended by L.1949, c. 209, p. 683, § 4; L.1966, c.27, § 5, eff. July 1, 1966; L.1998, c.105, § 7, eff. Sept. 14, 1998.

#### **4:11-6. Investigation of record of applicant or licensee**

The secretary, or an assistant whom he may designate, may, either of his own motion or upon the verified complaint of any interested person, investigate the record of any person applying for or holding a license, or his agents.

For the purpose of such investigation the secretary or assistant may examine the ledgers, books of account, memoranda or other documents of any such person and may take testimony thereon under oath, but information relating to the general business of any such person disclosed by the investigation and not related to the immediate purpose thereof shall be deemed of a confidential nature by the secretary or assistant.

#### **4:11-7. Hearing by secretary when verified complaint filed**

When a verified complaint mentioned in section 4:11-6 of this title is filed with the secretary, with respect to any person applying for or holding a license, or his agents, the secretary shall conduct a hearing thereon and shall furnish such person with a copy of the complaint and a notice of the time and place of hearing, which notice shall be served either personally or by registered mail directed to his place of business or last known residence address, with postage fully prepaid, at least ten days prior to the time fixed for hearing.

In the hearing of any complaint the secretary or assistant whom he may designate may sign and issue subpoenas, administer oaths, examine witnesses, take depositions, receive evidence and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records and memoranda as may be material in the determination of the matter alleged in the complaint.

The secretary or assistant whom he may designate shall render a decision either dismissing the complaint or specifying the facts which he deems established at the hearing.

#### **4:11-8. Hearing before revocation of license**

Before any license is revoked, the licensee shall be furnished with a copy of the complaint against him and shall be given at least ten days' notice of the time and place fixed for the hearing before the secretary to determine whether the license should be revoked. The notice shall be served in the manner provided in section 4:11-7 of this title.

At the time and place fixed for hearing the secretary shall receive evidence, administer oaths, examine witnesses and hear the testimony and shall thereafter file an order either dismissing the proceeding or revoking the license.

#### **4:11-9 Grounds for refusing or revoking license**

The secretary may decline to grant or may revoke a license when he is satisfied that:

- a. The applicant or licensee has violated the State laws or official regulations governing interstate or intrastate movement of cattle, sheep, horses or swine;
- b. In the buying or receiving of cattle, sheep, horses or swine, or receiving, selling, exchanging, soliciting or negotiating the sale, resale, exchange or shipment of cattle, sheep, horses or swine, there have been false or misleading statements as to the health or physical condition of the animals with regard to official tests, or quantity of cattle, sheep, horses or swine or the practice of fraud or misrepresentation in connection therewith;
- c. As shown by a continual course of dealing, the licensee is unable or unwilling to conduct properly the business of a dealer or broker;

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d. The applicant or licensee has knowingly bought or received cattle, sheep, horses or swine, or received, sold, exchanged, solicited or negotiated the sale, resale or exchange of cattle, sheep, horses or swine that were diseased and likely to transmit such disease to other cattle, sheep, horses or swine, or human beings;

e. There has been a failure to practice ordinary measures of sanitation of barns, stables, premises or vehicles used for the stabling, holding or transporting of cattle, sheep, horses or swine;

f. There has been a continual or persistent failure to keep records required by the secretary or by law; or that there is a refusal on the part of the licensee to produce books, accounts or records of transactions in the carrying on of the business for which the license is granted; or

g. There has been a continual or persistent failure to comply with the provisions of R.S.4:22-1 et seq. relating to cruelty to animals.

Amended by L.1949, c.209, p. 683, § 5; L.1966, c. 27, § 6, eff. July 1, 1966; L.1998, c. 105, § 8, eff. Sept. 14, 1998.

#### **4:11-10. Review of refusal or revocation of license**

The action of the secretary in refusing to grant or in revoking a license shall be subject to review by the Superior Court in a proceeding in lieu of prerogative writ. Whenever any proceeding is taken to review the revocation of a license the license shall be deemed to be in force until the final determination of the proceeding, if the license fee has been paid, subject, however, to the order of the said court.

Amended by L.1953, c. 5, p. 34, § 23.

#### **4:11-11. Keeping of records by dealer or broker**

Every dealer or broker shall keep accounts, records and memoranda which shall fully and clearly disclose all transactions involved in his business, including the true ownership of the business by stockholders or otherwise.

#### **4:11-12. Posting by dealer or broker of copy of license**

Every person licensed under the provisions of this article and conducting business under the license shall keep a copy thereof, to be furnished by the secretary, posted in a conspicuous place in or at his place of business and exposed to inspection by any person entitled to make such inspection.

#### **4:11-13 Carrying and exhibiting agent's card**

The licensee and each of his agents shall carry an agent's card at all times, when buying or receiving cattle, sheep, horses or swine, or receiving, selling, exchanging, soliciting or negotiating the sale, resale, or shipment of cattle, sheep, horses or swine.

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The licensee or agent shall exhibit the card to persons with whom he is negotiating or from whom he is soliciting business and to the secretary or assistant whom the secretary may designate.

Amended by L.1949, c.209, p. 684, § 6; L.1966, c.27, § 7, eff. July 1, 1966; L.1998, c.105, § 9, eff. Sept. 14, 1998.

#### **4:11-13.1. Rules and regulations**

The board may adopt and promulgate such rules and regulations as it may deem necessary to carry out the provisions of this act and to prevent the spread of disease among cattle, sheep, horses and swine.

L.1966, c.27, § 3, eff. July 1, 1966. Amended by L.1998, c.105, § 10, eff. Sept. 14, 1998.

#### **4:11-14. Penalty for violating article; jail for nonpayment**

A person who shall:

a. Engage in or carry on the business of buying or receiving cattle, sheep, horses or swine, or receiving, selling, exchanging, soliciting or negotiating the sale, resale, exchange or shipment of cattle, sheep, horses or swine, as dealer, broker or agent, within the meaning of this article, without first having obtained a license as provided in this article; or

b. Violate any of the provisions of this article--

Shall be liable to a penalty of \$200.00 for the first offense and \$500.00 for the second and each subsequent offense, which penalty shall be sued for and recovered by and in the name of the department in the manner provided in article 1 of chapter 23 of this Title (R.S. 4:23-1 et seq.) and in such proceeding the defendant may be arrested upon the commencement of the action.

If judgment is rendered for the plaintiff the court shall cause a defendant who shall fail to pay forthwith the amount of the judgment rendered against him, and all costs and charges incident thereto, to be committed to the county jail for a period of not less than five nor more than 90 days in the case of a first offense and not less than 10 nor more than 200 days for a second and each subsequent offense.

Amended by L.1949, c.209, p. 684, §.7; L.1953, c.5, p. 34, § 24; L.1966, c.27, § 8, eff. July 1, 1966; L.1998, c.105, §11, eff. Sept. 14, 1998.