

SENATE BILL 217

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Cliff R. Pirtle and George K. Munoz

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO AGRICULTURE; ENACTING THE PECAN BUYERS LICENSURE ACT; CREATING AN IN-SHELL PECAN BUYER'S LICENSE; PROVIDING POWERS AND DUTIES TO THE NEW MEXICO DEPARTMENT OF AGRICULTURE, PEACE OFFICERS AND IN-SHELL PECAN BUYERS; ENACTING Sfl→**CRIMINAL**←Sfl PENALTIES FOR VIOLATIONS OF THE PECAN BUYERS LICENSURE ACT SJC→~~AND FOR LARCENY OF PECANS~~←SJC.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.-SJC→~~Sections 1 through 8 of this~~ **This**←SJC act may be cited as the "Pecan

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Buyers Licensure Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Pecan Buyers Licensure Act:

A. "buyer" means a person engaged in the business of purchasing in-shell pecans Sfl→, ~~including~~ from a pecan producer and includes ←Sfl an accumulator, buying station, cleaning plant, sheller, dealer or broker;

B. "buying location" means a physical location where a buyer accepts in-shell pecans or a physical location where records relating to the purchase of in-shell pecans are maintained in the event the purchase of in-shell pecans is brokered;

C. "department" means the New Mexico department of agriculture, its staff or authorized agents;

D. "director" means the director of the New Mexico department of agriculture;

E. "in-shell pecan" means a pecan nut with its shell attached;

F. "license" means an in-shell pecan buyer's license issued by the department pursuant to the Pecan Buyers Licensure Act;

G. "peace officer" means a full-time salaried and commissioned or certified law enforcement officer of a police or sheriff's department that is part of or administered by the state or a political subdivision of the state; Sfl→and←Sfl

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Sf1→H. "pecan producer" means a person who grows
pecans; and←Sf1

Sf1→H I←Sf1 . "personal identification document" means:

- (1) a driver's license;
- (2) a military identification card; or
- (3) a passport issued by the United States or by another country and recognized by the United States.

SECTION 3. [NEW MATERIAL] NEW MEXICO DEPARTMENT OF AGRICULTURE--PEACE OFFICER--POWERS AND DUTIES--RULEMAKING.--

A. The department shall:

- (1) establish an in-shell pecan licensing and inspection program directed at buyers of in-shell pecans;
- (2) adopt rules to carry out the provisions of the Pecan Buyers Licensure Act; and
- (3) collect a reasonable annual licensure fee, established in rule, but not to exceed five hundred dollars (\$500).

B. The department or a peace officer may Sf1→:←Sf1

Sf1→(1)←Sf1 inspect buying locations and documents related to the buying and selling of in-shell pecans to determine compliance with the Pecan Buyers Licensure Act or adopted rules Sf1→; and

~~(2) seize in-shell pecans determined to have been bought or sold in violation of the Pecan Buyers Licensure Act or adopted rules.~~

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~~C. The department or a peace officer shall not require a buyer to disclose financial information related to the buying or selling of in-shell pecans pursuant to Pecan Buyers Licensure Act~~←Sf1.

SECTION 4. [NEW MATERIAL] BUYER'S LICENSE REQUIREMENT--APPLICATION.--

A. A license is required for:

(1) the purchase of in-shell pecans by a buyer; and

(2) each buying location used by a buyer.

B. On an annual basis, a buyer shall submit an application to the department for a license. The information required on the application shall be established by department rule.

C. A license shall be valid for a period of twelve months, beginning and ending on a date specified by the department.

SECTION 5. [NEW MATERIAL] DUTIES OF BUYER--RECORD OF PURCHASE.--

A. A buyer shall:

(1) not purchase in-shell pecans without a valid license;

(2) comply with the provisions of the Pecan Buyers Licensure Act and adopted rules;

(3) comply with state and federal requirements

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related to the movement of in-shell pecans;

(4) ensure that all of the buyer's employees involved in the purchasing, receiving or shipping of in-shell pecans are trained on the provisions of the Pecan Buyers Licensure Act and adopted rules;

(5) maintain accurate and legible written records, in a form approved by the department, of the purchase of in-shell pecans that are made in the course of the buyer's business;

(6) ensure that records of the purchase of in-shell pecans are available for inspection by the department or a peace officer within forty-eight hours of the transaction; and

(7) retain records of the purchase of in-shell pecans for a minimum of two years.

B. A purchase record shall include the:

- (1) location and date of the purchase;
- (2) name and address of the seller;
- (3) street address or physical location of the tree or the farm from where the in-shell pecans originated;
- (4) identification number contained on the personal identification document of the seller;
- (5) license plate number, make and model of the seller's motor vehicle; and
- (6) total weight of the in-shell pecans

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purchased.

C. If a licensed buyer purchases in-shell pecans from another licensed buyer, the purchase record shall include the seller's name, address and telephone number, the date of origin of the in-shell pecans and the total weight of the in-shell pecans purchased.

SECTION 6. [NEW MATERIAL] EXEMPTIONS.--

A. The Pecan Buyers Licensure Act does not apply to:

(1) a person whose business is a grocery store, retail store, gas station or other similar operation and that conducts in-shell pecan transactions totaling less than one hundred pounds during any twelve-month period;

(2) transactions involving in-shell pecans for personal consumption totaling less than fifty pounds during any twelve-month period; and

(3) brokers or other individuals, as approved by the department, that are engaged in in-shell pecan transactions, but that do not physically receive pecan shipments within the state.

B. Additional exemptions to the licensing requirements of the Pecan Buyers Licensure Act may be granted by the director.

SECTION 7. [NEW MATERIAL] VIOLATIONS--REVOCATION OF LICENSESf1→-CRIMINAL←s1 PENALTY.--

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A. The department may revoke a license for violations of the Pecan Buyers Licensure Act or the rules or orders promulgated pursuant to that act. The department may deny a subsequent license to a person found to be in violation of the Pecan Buyers Licensure Act.

B. A Sfl→~~violation of~~←Sfl Sfl→**person who violates**←Sfl the provisions of the Pecan Buyers Licensure Act, or Sfl→~~a violation of~~←Sfl a rule or order promulgated under that act, after a notice to cease and desist Sfl→, ~~shall be deemed a petty misdemeanor~~←Sfl Sfl→**is guilty of a penalty assessment misdemeanor, and the penalty assessment is two hundred fifty dollars (\$250)**←Sfl.

C. Each day a person remains in violation of the Pecan Buyers Licensure Act constitutes a separate offense.

SECTION 8. [NEW MATERIAL] DISPOSITION OF FEES.--All fees collected pursuant to the Pecan Buyers Licensure Act shall be paid into the treasury of New Mexico state university and credited to the department for administration and enforcement of the Pecan Buyers Licensure Act.

SJC→~~SECTION 9. Section 30-16-1 NMSA 1978 (being Laws 1963, Chapter 303, Section 16-1, as amended) is amended to read:~~

~~"30-16-1. LARCENY.--~~

~~A. Larceny consists of the stealing of anything of value that belongs to another.~~

~~B. Whoever commits larceny when the value of the~~

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~~property stolen is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.~~

~~G. Whoever commits larceny when the value of the property stolen is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.~~

~~D. Whoever commits larceny when the value of the property stolen is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.~~

~~E. Whoever commits larceny when the value of the property stolen is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.~~

~~F. Whoever commits larceny when the value of the property stolen is over twenty thousand dollars (\$20,000) is guilty of a second degree felony.~~

~~G. Whoever commits larceny when the property of value stolen is livestock is guilty of a third degree felony regardless of its value.~~

~~H. Whoever commits larceny when the property of value stolen is a firearm is guilty of a fourth degree felony when its value is less than two thousand five hundred dollars (\$2,500).~~

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~~I. Whoever commits larceny when the property of value stolen is twenty-five pounds or more of in-shell pecans is guilty of a misdemeanor when the property's value is not more than five hundred dollars (\$500)."~~←SJC

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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