

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 214

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

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 PENALTIES FOR VIOLATIONS OF THE PECAN BUYERS LICENSURE ACT.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Pecan 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, including an accumulator, buying station, cleaning plant, sheller, dealer or broker;

B. "buying location" means a physical location

1 where a buyer accepts in-shell pecans or a physical location  
2 where records relating to the purchase of in-shell pecans are  
3 maintained in the event the purchase of in-shell pecans is  
4 brokered;

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

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

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

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

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

18 H. "personal identification document" means:

19 (1) a driver's license;

20 (2) a military identification card; or

21 (3) a passport issued by the United States or  
22 by another country and recognized by the United States.

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

25 A. The department shall:

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1 (1) establish an in-shell pecan licensing and  
2 inspection program directed at buyers of in-shell pecans;

3 (2) adopt rules to carry out the provisions of  
4 the Pecan Buyers Licensure Act; and

5 (3) collect a reasonable annual licensure fee,  
6 established in rule, but not to exceed five hundred dollars  
7 (\$500).

8 B. The department or a peace officer may inspect  
9 buying locations and documents related to the buying and  
10 selling of in-shell pecans to determine compliance with the  
11 Pecan Buyers Licensure Act or adopted rules.

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

14 A. A license is required for:

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

17 (2) each buying location used by a buyer.

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

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

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

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1 PURCHASE.--

2 A. A buyer shall:

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

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

7 (3) comply with state and federal requirements  
8 related to the movement of in-shell pecans;

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

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

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

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

23 B. A purchase record shall include the:

24 (1) location and date of the purchase;

25 (2) name and address of the seller;

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1 (3) street address or physical location of the  
2 tree or the farm from where the in-shell pecans originated;

3 (4) identification number contained on the  
4 personal identification document of the seller;

5 (5) license plate number, make and model of  
6 the seller's motor vehicle; and

7 (6) total weight of the in-shell pecans  
8 purchased.

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

14 SECTION 6. [NEW MATERIAL] EXEMPTIONS.--

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

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

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

24 (3) brokers or other individuals, as approved  
25 by the department, that are engaged in in-shell pecan

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1 transactions, but that do not physically receive pecan  
2 shipments within the state.

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

6 SECTION 7. [NEW MATERIAL] VIOLATIONS--REVOCATION OF  
7 LICENSE--PENALTY.--

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

13 B. A person who violates the provisions of the  
14 Pecan Buyers Licensure Act, or a rule or order promulgated  
15 under that act, after a notice to cease and desist, is guilty  
16 of a penalty assessment misdemeanor, and the penalty assessment  
17 is two hundred fifty dollars (\$250).

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

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

25 SECTION 9. EFFECTIVE DATE.--The effective date of the

1 provisions of this act is July 1, 2018.

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