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HOUSE BILL 214

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

INTRODUCED BY

Yvette Herrell and James G. Townsend and Bealquin Bill Gomez

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 CRIMINAL PENALTIES FOR VIOLATIONS OF THE PECAN BUYERS LICENSURE ACT AND FOR LARCENY OF PECANS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 8 of 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

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1 station, cleaning plant, sheller, dealer or broker;

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

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

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

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

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

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

20 H. "personal identification document" means:
21 (1) a driver's license;
22 (2) a military identification card; or
23 (3) a passport issued by the United States or
24 by another country and recognized by the United States.

25 SECTION 3. [NEW MATERIAL] NEW MEXICO DEPARTMENT OF

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1 AGRICULTURE--PEACE OFFICER--POWERS AND DUTIES--RULEMAKING.--

2 A. The department shall:

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

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

7 (3) collect a reasonable annual licensure fee,
8 established in rule, but not to exceed five hundred dollars
9 (\$500).

10 B. The department or a peace officer may:

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

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

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

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

24 A. A license is required for:

25 (1) the purchase of in-shell pecans by a

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1 buyer; and

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

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

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

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

12 A. A buyer shall:

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

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

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

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

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

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1 business;

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

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

8 B. A purchase record shall include the:

9 (1) location and date of the purchase;

10 (2) name and address of the seller;

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

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

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

17 (6) total weight of the in-shell pecans
18 purchased.

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

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

25 A. The Pecan Buyers Licensure Act does not apply

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1 to:

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

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

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

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

16 SECTION 7. [NEW MATERIAL] VIOLATIONS--REVOCATION OF
17 LICENSE--CRIMINAL PENALTY.--

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

23 B. A violation of the provisions of the Pecan
24 Buyers Licensure Act, or a violation of a rule or order
25 promulgated under that act, after a notice to cease and desist,

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1 shall be deemed a petty misdemeanor.

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

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

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

11 "30-16-1. LARCENY.--

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

14 B. Whoever commits larceny when the value of the
15 property stolen is two hundred fifty dollars (\$250) or less is
16 guilty of a petty misdemeanor.

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

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

25 E. Whoever commits larceny when the value of the

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1 property stolen is over two thousand five hundred dollars
2 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
3 guilty of a third degree felony.

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

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

10 H. Whoever commits larceny when the property of
11 value stolen is a firearm is guilty of a fourth degree felony
12 when its value is less than two thousand five hundred dollars
13 (\$2,500).

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

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