

1 AN ACT  
2 RELATING TO AGRICULTURE; ENACTING THE PECAN BUYERS LICENSURE  
3 ACT; CREATING AN IN-SHELL PECAN BUYER'S LICENSE; PROVIDING  
4 POWERS AND DUTIES TO THE NEW MEXICO DEPARTMENT OF  
5 AGRICULTURE, PEACE OFFICERS AND IN-SHELL PECAN BUYERS;  
6 ENACTING PENALTIES FOR VIOLATIONS OF THE PECAN BUYERS  
7 LICENSURE ACT.

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

10 SECTION 1. SHORT TITLE.--This act may be cited as the  
11 "Pecan Buyers Licensure Act".

12 SECTION 2. DEFINITIONS.--As used in the Pecan Buyers  
13 Licensure Act:

14 A. "buyer" means a person engaged in the business  
15 of purchasing in-shell pecans from a pecan producer and  
16 includes an accumulator, buying station, cleaning plant,  
17 sheller, dealer or broker;

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

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

25 D. "director" means the director of the New Mexico

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1 department of agriculture;

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

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

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

11 H. "pecan producer" means a person who grows  
12 pecans; and

13 I. "personal identification document" means:  
14 (1) a driver's license;  
15 (2) a military identification card; or  
16 (3) a passport issued by the United States  
17 or by another country and recognized by the United States.

18 SECTION 3. NEW MEXICO DEPARTMENT OF AGRICULTURE--PEACE  
19 OFFICER--POWERS AND DUTIES--RULEMAKING.--

20 A. The department shall:

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

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

25 (3) collect a reasonable annual licensure

1 fee, established in rule, but not to exceed five hundred  
2 dollars (\$500).

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

7 SECTION 4. BUYER'S LICENSE REQUIREMENT--APPLICATION.--

8 A. A license is required for:

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

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

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

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

19 SECTION 5. DUTIES OF BUYER--RECORD OF PURCHASE.--

20 A. A buyer shall:

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

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

25 (3) comply with state and federal

1 requirements related to the movement of in-shell pecans;

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

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

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

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

16 B. A purchase record shall include the:

17 (1) location and date of the purchase;  
18 (2) name and address of the seller;  
19 (3) street address or physical location of  
20 the tree or the farm from where the in-shell pecans  
21 originated;

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

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

1 (6) total weight of the in-shell pecans  
2 purchased.

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

8 SECTION 6. EXEMPTIONS.--

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

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

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

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

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

25 SECTION 7. VIOLATIONS--REVOCATION OF LICENSE--

1 PENALTY.--

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

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

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

14 SECTION 8. DISPOSITION OF FEES.--All fees collected  
15 pursuant to the Pecan Buyers Licensure Act shall be paid into  
16 the treasury of New Mexico state university and credited to  
17 the department for administration and enforcement of the  
18 Pecan Buyers Licensure Act.

19 SECTION 9. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2018. \_\_\_\_\_

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