

TITLE 25
ANIMALS

CHAPTER 17
LIVESTOCK MARKETS

25-1719. SHORT TITLE. This act shall be known and cited as the "Idaho Public Livestock Market Development Act."

[25-1719, added 1961, ch. 201, sec. 1, p. 310.]

25-1720. STATEMENT OF PURPOSE. It is hereby declared to be the policy of the state of Idaho, and the purpose of this act, to encourage, stimulate and stabilize the agricultural economy of the state in general, and the livestock economy in particular, by encouraging the construction, development and productive operation of public livestock markets as key industries of the state and those markets' particular trade areas, with all benefits of fully open, free, competitive factors, in respect to sales and purchases of livestock.

[25-1720, added 1961, ch. 201, sec. 2, p. 310.]

25-1721. DEFINITIONS OF TERMS. The following words and phrases as used in this act, unless the context otherwise requires, shall have the meanings respectively ascribed to them in this section.

(a) "Persons" shall include any individual, firm, association, partnership or corporation.

(b) "Department" means the department of agriculture.

(c) "Director" means the director of the department of agriculture.

(d) "Livestock" means and includes cattle, calves, horses, mules and swine.

(e) "Public livestock market" means:

Any place, establishment or facility commonly known as a "livestock market," "livestock auction market," "sales ring," "stockyard," or the like, consisting of pens, or other inclosures, and their appurtenances, in which livestock is received, held, sold or kept for sale or shipment, which is conducted or operated for compensation or profit as a public market for livestock.

Marketing or trading, including the transmission of market information, bids, and offers, may be facilitated by computer, video, or any other electronic device.

(f) "Market charter" means the charter for public livestock market operation authorized to be issued under the provisions of this act.

(g) "Livestock market operator" means any person engaged in the business of conducting or operating a public livestock market, whether personally or through agents or employees.

[25-1721, added 1961, ch. 201, sec. 3, p. 310; am. 1974, ch. 18, sec. 147, p. 364; am. 1985, ch. 238, sec. 1, p. 564; am. 1994, ch. 314, sec. 1, p. 999.]

25-1722. EXEMPTIONS. This act shall not be construed to include as a public livestock market:

(a) Any place or operation where future farmers or 4-H groups, or private fairs conduct sales of livestock.

(b) Any place or operation conducted for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business and no other livestock is sold or offered for sale.

(c) Any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock when such breeders shall assume all responsibility of such sale and the title of livestock sold. This shall apply to all purebred livestock association sales.

(d) All sales of livestock by any generally recognized statewide association or associations composed of persons engaged in the production in Idaho of cattle, calves, sheep, mules, horses, swine, or goats.

(e) Sales of livestock by any nonprofit cooperative association, corporation sole or religious, fraternal or benevolent corporation, provided such association or corporation complies with regulations of the director in connection with such sale and such sales are not held in the regular course of business of such corporation or association.

(f) Any Idaho auction market operated by an Idaho licensed auctioneer selling not more than twenty (20) animals a week or more than eighty (80) animals a month, provided such an auction market is bonded under the provisions of the Federal Packers and Stockyards Act, of 1921, as amended.

[25-1722, added 1961, ch. 201, sec. 4, p. 310; am. 1963, ch. 130, sec. 1, p. 382; am. 1965, ch. 138, sec. 1, p. 271; am. 1974, ch. 18, sec. 148, p. 364.]

25-1723. ADMINISTRATION OF ACT. The director is hereby vested with power and authority, and it is hereby made his duty, to:

(a) Administer the provisions of this act in respect to the issuances, suspensions and revocations of market charters.

(b) Prescribe by general order, or otherwise, rules and regulations in conformity with this act, applicable to its efficient and effective administration.

[25-1723, added 1961, ch. 201, sec. 5, p. 310; am. 1974, ch. 18, sec. 149, p. 364.]

25-1724. MARKET CHARTER AND APPLICATION -- FEES, CHARTER AND HEARING. No person shall conduct or operate a public livestock market unless and until he has a market charter therefor, upon which the current annual market charter fee has been paid. Any person making application for such market charter shall do so to the director in writing, verified by the applicant, in the form as prescribed by the director, showing the following:

(a) The name and address of the applicant, with a statement of the names and addresses of all persons having any financial interest in the applicant and the amount of such interest. This statement shall include the legal names of all members of a partnership; the officers and members of the governing board of an association; and five (5) principal stockholders of a corporation. If, during the period of a market charter issued hereunder, any change shall take place in the personnel identified herein, the holder of the market charter shall forthwith make a verified report of any such change to the director.

(b) Financial responsibility of the applicant in the form of a statement of all assets and liabilities.

(c) A legal description of the property and its exact location with a complete description of the facilities proposed to be used in connection with such public livestock market.

(d) The schedule of charges applicant proposes to charge for all services proposed to be rendered.

(e) A detailed statement of the facts upon which the applicant relies showing the general confines of the trade area proposed to be served by such public livestock market, the benefits to be derived by the livestock industry and the services proposed to be rendered.

Such application shall be accompanied by the annual charter fee as prescribed in section [25-1728](#), Idaho Code. In addition, the application shall be accompanied by a hearing fee of five hundred dollars (\$500) which shall not be returnable to the applicant. Said annual charter fee and hearing fee shall be remitted separately. The director shall remit said hearing fee to the state treasurer of the state of Idaho to be credited to the "Public Livestock Market Fund."

[25-1724, added 1961, ch. 201, sec. 6, p. 310; am. 1965, ch. 65, sec. 1, p. 100; am. 1974, ch. 18, sec. 150, p. 364; am. 1985, ch. 238, sec. 2, p. 565; am. 1994, ch. 314, sec. 2, p. 999.]

25-1725. NOTICE OF HEARING ON APPLICATION. Upon the filing of such application, the director shall fix a reasonable time for the hearing thereon in the city itself, or the nearest city, where the public livestock market is proposed to be located. The director forthwith shall cause notice of the time and place of hearing, to be served by mail not less than fifteen (15) days prior to such hearing upon the following:

(a) All duly organized statewide livestock associations in the state who have filed written notice with the director of a request to receive notice of such hearings and such other livestock associations as in the opinion of the director would be interested in such application.

(b) The operators of all public livestock markets in the state.

The director shall give further notice of such hearing by publication of the notice thereof once in a daily or weekly newspaper circulated in the city or town where such hearing is to be held, as in the opinion of the director will give public notice of such time and place of hearing to persons interested therein.

[25-1725, added 1961, ch. 201, sec. 7, p. 310; am. 1965, ch. 65, sec. 2, p. 100; am. 1974, ch. 18, sec. 151, p. 364; am. 1985, ch. 238, sec. 3, p. 565; am. 1994, ch. 314, sec. 3, p. 1000.]

25-1726. HEARING ON APPLICATION. A hearing shall be conducted by the director. If after a hearing upon such application at which interested persons may formally appear in support or opposition thereto, the director finds from the evidence presented that such public livestock market for which a market charter is sought would beneficially serve the livestock economy, such market charter shall be issued the applicant. In determining whether or not the application should be granted or denied, the director shall give reasonable consideration to:

(a) The ability of the applicant to comply with that certain act of the congress of the United States known as the Packers and Stockyards Act, as amended (7 USC 181, et seq.).

(b) The financial stability, business integrity and fiduciary responsibility of the applicant.

(c) The livestock industry marketing benefits to be derived from the establishment and operation of the public livestock market proposed in the application.

(d) The adequacy of the facilities set forth in the application, to permit the performance of market services proposed in the application.

(e) The present market services elsewhere available to the trade area proposed to be served.

(f) Whether the proposed public livestock market would be permanent and continuous.

(g) The economic feasibility of the proposed market services based on competent evidence in respect to such aspects.

(h) Proper facilities for health inspection and testing of livestock.

[25-1726, added 1961, ch. 201, sec. 8, p. 310; am. 1974, ch. 18, sec. 152, p. 364.]

25-1728. MARKET CHARTER FEE -- PUBLIC LIVESTOCK MARKET FUND -- APPROPRIATION -- PAYMENT OF CLAIMS. (1) Every livestock market operator shall pay annually, on or before May 1, a market charter fee established by rules of the director but not in excess of two hundred dollars (\$200) to the director for each public livestock market operated by him, which payment shall constitute a renewal of his license for one (1) year.

(2) The director shall promptly remit said fees to the state treasurer of the state of Idaho and the sums so paid under the provisions of this act shall be held by the state treasurer as a separate fund to be known as the "Public Livestock Market Fund," which said fund is hereby created by this act. The state controller is hereby authorized, upon presentation of the proper vouchers or claims against said fund, approved by the director and the state board of examiners, as provided by law, to draw his warrant upon said fund.

(3) All moneys in or hereafter to come into said fund are hereby appropriated to said director for the purpose of carrying out the objects of this act and to pay all costs and expenses heretofore or hereafter incurred therein or connected therewith. For the purpose of carrying out the objects of this act, and in the exercise of the powers therein granted, and duties hereby imposed, the director shall have power to make orders concerning the disbursement of said fund.

[25-1728, added 1961, ch. 201, sec. 10, p. 310; am. 1965, ch. 65, sec. 3, p. 100; am. 1974, ch. 18, sec. 153, p. 364; am. 1994, ch. 180, sec. 40, p. 453.]

25-1729. TRANSFERS OF MARKET CHARTERS -- HEARING AND CHARTER FEES. Each market charter is personal to the holder and the facilities covered thereby, and transferable only upon application in the same form and manner as new applications for such market charters. A change in the membership of a partnership or association, or the sale or transfer, directly or indirectly, of a controlling interest in the stock ownership of a corporate market charter

holder shall be deemed a transfer of the market charter, subject to the requirements of this section.

Any transfer of a market charter shall be accompanied by a processing fee of one hundred dollars (\$100), which sum shall not be returnable to the applicant and which sum shall be remitted by the director to the public livestock market fund. Each such application shall also be accompanied by a separate remittance of the annual charter fee. If within ten (10) days after notice to those persons to whom notice is required to be given by section [25-1725](#), Idaho Code, a request for a hearing is not made by such a person, the director may transfer a market charter without a hearing if he finds that such a transfer meets the conditions required for a new charter but should a hearing be necessary, an additional fee of one hundred fifty dollars (\$150) shall be remitted to the director before the proceedings shall begin.

[25-1729, added 1961, ch. 201, sec. 11, p. 310; am. 1965, ch. 65, sec. 4, p. 100; am. 1967, ch. 221, sec. 1, p. 667; am. 1974, ch. 18, sec. 154, p. 364; am. 1985, ch. 238, sec. 5, p. 566.]

25-1730. BOND OF APPLICANT. No market charter or renewal of market charter shall be issued until the applicant shall have executed a surety bond as required under the provisions of that certain act of the congress of the United States known as the Packers and Stockyards Act, as amended (7 USC 181, et seq.) for market agencies selling on commission. A certified copy of such bond in full force and effect as on file with the United States department of agriculture shall be filed with the director and shall satisfy the requirements of this section.

[25-1730, added 1961, ch. 201, sec. 12, p. 310; am. 1974, ch. 18, sec. 155, p. 364.]

25-1731. RECORDS OF CHARTER HOLDER. Every market charter holder under this act shall keep an accurate record of all transactions conducted in the ordinary course of his business. Such records shall be available for the examination of the director, or his duly authorized representative, in respect to a market charter issued under the provisions of this act.

[25-1731, added 1961, ch. 201, sec. 13, p. 310; am. 1974, ch. 18, sec. 156, p. 364.]

25-1732. INVESTIGATION OF ACTIONS OF MARKET CHARTER HOLDERS -- HEARINGS ON COMPLAINTS -- WITNESSES -- SUSPENSION OR REVOCATION OF MARKET CHARTERS -- VIOLATION OF PACKERS AND STOCKYARDS ACT OF 1921 -- INJUNCTION -- HEARING -- AUDIT. The director may, upon his own motion, whenever he has reason to believe the provisions of this act have been violated, or upon verified complaint of any person in writing investigate the actions of any market charter holder, and if he finds probable cause to do so, shall file a complaint against the market charter holder which shall be set down for hearing before the director upon fifteen (15) days' notice served upon such market charter holder either by personal service upon him or by registered mail or telegram prior to such hearing.

The director shall have the power to administer oaths, certify to all official acts and shall have the power to subpoena any person in this state as a witness, to compel the producing of books and papers and to take the testimony of any person on deposition in the same manner as is prescribed by law in

the procedure before the courts of this state in civil cases. Processes issued by the director shall extend to all parts of the state and may be served by any person authorized to serve processes. Each witness that shall appear by the order of the director at any hearing shall receive for his attendance the same fees and mileage allowed by law to witnesses in civil cases appearing in the district court, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness has not been required to attend at the request of any party, but subpoenaed by the director, his fees and mileage shall be paid by the director in the same manner as other expenses of the director are paid.

All powers of the director herein enumerated in respect to administering oaths, power of subpoena, etc., in hearings on complaints shall likewise be applicable to hearings held on applications for the issuance of a market charter.

Formal finding by the director after due hearing that any market charter holder:

(a) Has ceased to conduct a public livestock market business for at least twelve (12) months; or

(b) Has been guilty of fraud or misrepresentation as to the titles, charges, number, brands, weights, proceeds of sale or ownership of livestock; or

(c) Has violated any of the provisions of this act; or

(d) Has violated any of the rules or regulations adopted and published by the director; or

(e) Has violated any of the provisions of the United States Packers and Stockyards Act, of 1921, as amended, or regulations relating thereto, shall be deemed a sufficient cause for the suspension or revocation of the market charter of the offending public livestock market operator. Provided, however, that if the director has reasonable cause to believe that a market operator has violated this act or said Packers and Stockyards Act, of 1921, as amended, or regulations pertaining thereto, it may petition the district court of the district in which said market is located to enjoin such violation by filing a verified complaint setting forth the acts constituting such violation. The court, if satisfied from such complaint that the act or acts complained of have been or are being or are about to be committed, may issue a temporary writ without notice or bond enjoining the defendant from operating said market pending a hearing of the director but no longer than twenty-one (21) days. An audit by the packers and stockyards division of the United States department of agriculture of said market shall be prima facie evidence of the facts therein contained. The director shall only use such audit or audits approved by the packers and stockyards division of the United States department of agriculture.

[25-1732, added 1961, ch. 201, sec. 14, p. 310; am. 1965, ch. 65, sec. 5, p. 100; am. 1967, ch. 221, sec. 2, p. 667; am. 1974, ch. 18, sec. 157, p. 364.]

25-1733. APPEALS FROM DECISIONS OF DIRECTOR. The director shall keep a complete transcript of all proceedings and evidence presented in any hearing before him. The applicant for a market charter, or any protestant formally appearing in the hearing before the director for such market charter, or the holder of any market charter suspended or revoked, or any party to a transfer application, may appeal to the district court of the county in which the proposed public livestock market is to be located, or in which the market char-

ter holder has his public livestock market, by giving notice of such appeal in writing to the director within fifteen (15) days after receiving notice by registered mail of the director's decision, and within said time filing a bond with the clerk of said district court in the sum of five hundred dollars (\$500) to be approved by the clerk of said court as legally sufficient, conditioned to pay all costs that may be awarded against such party in the event of an adverse decision, or the decision of the director being affirmed or upheld. Within thirty (30) days after such decision or within such additional time as the district court shall allow upon good cause shown, but not exceeding sixty (60) days after said decision, the appealing party shall file with the clerk of said district court a transcript of the testimony and proof presented to the director including notice of appeal, complaint, pleadings, notices, motions and other papers filed with the director duly certified by him. Cost of preparing such transcript shall be paid by the appealing party. In case of suspension or revocation of a market charter the filing of such notice and bond shall stay the order of the director until the final determination of the appeal. If the appealing party shall fail to perfect his appeal or file said transcript as herein provided, said stay shall automatically terminate. The hearing on appeal shall be had summarily and solely upon the record of the proceedings before the director, in the matter in which the appeal is taken and upon which his decision was rendered, and there shall not be any additional evidence introduced or anything in the nature of a trial de novo. The court shall not substitute its discretion for that of the director but shall determine whether the director acted capriciously, arbitrarily, or abused his discretion and whether he acted according to law. Appeals from judgments of the district court may be taken to the Supreme Court in the same manner as appeals are taken in civil actions.

[25-1733, added 1961, ch. 201, sec. 15, p. 310; am. 1974, ch. 18, sec. 158, p. 364.]

25-1734. PENALTIES. Any person who shall violate any provision or requirement of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$200 nor more than \$1,000, or by imprisonment in the county jail for a period not exceeding 30 days, or by both such fine and imprisonment. Each day any person operates or conducts a public livestock market in the state without a charter as prescribed in this act shall be considered a separate offense. The board is empowered to institute proceedings to enjoin the operation of a public livestock market if the person sought to be enjoined is operating a public livestock market without a market charter in good standing as provided in this act.

[25-1734, added 1961, ch. 201, sec. 16, p. 310.]

25-1735. LICENSED WEIGHMASTER. No market charter or renewal charter to establish or operate any public livestock market within the state of Idaho shall be issued nor shall any duly licensed public livestock market within this state continue to operate unless the livestock handled by said public livestock market shall be weighed by a licensed weighmaster.

[25-1735, added 1961, ch. 201, sec. 17, p. 310.]

25-1736. BRAND INSPECTION. Every livestock market operator engaged in the operation of a public livestock market within the state of Idaho shall

cause brand inspection to be made in such manner as the state brand board shall prescribe, of all livestock assembled at such public livestock market for either public or private sale, and shall provide facilities for such brand inspection, such facilities to consist of a tagging or holding chute so as to permit readily accessible brand inspection, and shall pay to the office of the state brand inspector fees and charges per head as determined according to the provisions of section [25-1160](#), Idaho Code.

[25-1736, added 1961, ch. 201, sec. 18, p. 310; am. 1969, ch. 190, sec. 2, p. 559; am. 1973, ch. 168, sec. 21, p. 339; am. 1976, ch. 180, sec. 2, p. 652; am. 1988, ch. 75, sec. 41, p. 130.]

25-1737. SANITATION. Every public livestock market shall be maintained in a sanitary condition conforming to standards established by rules of the director of the department of agriculture.

[25-1737, added 1961, ch. 201, sec. 19, p. 310; am. 1967, ch. 221, sec. 3, p. 667; am. 1974, ch. 18, sec. 159, p. 364.]

CHAPTER 18
POULTRY BRANDS -- [REPEALED]