

ARTICLE 16
Pecan Buyers Licensure Act

60-16-1. Short title.

This act [[60-16-1](#) through [60-16-8](#) NMSA 1978] may be cited as the "Pecan Buyers Licensure Act".

History: Laws 2018, ch. 47, § 1.

60-16-2. Definitions.

As used in the Pecan Buyers Licensure Act:

A. "buyer" means a person engaged in the business of purchasing in-shell pecans from a pecan producer and includes 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;

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

I. "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.

History: Laws 2018, ch. 47, § 2.

60-16-3. 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 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.

History: Laws 2018, ch. 47, § 3.

60-16-4. 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.

History: Laws 2018, ch. 47, § 4.

60-16-5. 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 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 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.

History: Laws 2018, ch. 47, § 5.

60-16-6. 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.

History: Laws 2018, ch. 47, § 6.

60-16-7. Violations; revocation of license; penalty.

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

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

History: Laws 2018, ch. 47, § 7.

60-16-8. 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.

History: Laws 2018, ch. 47, § 8.