

## HOUSE BILL NO. HB0007

Grain laws.

Sponsored by: Joint Agriculture, Public Lands and Water  
Resources Interim Committee

A BILL

for

1 AN ACT relating to grain laws; defining terms; clarifying  
2 the applicability of grain laws; amending bonding  
3 requirements; making conforming amendments; and providing  
4 for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8       **Section 1.**     W.S. 11-11-101(a)(ii), (iii) and by  
9 creating new paragraphs (vi) and (vii), 11-11-103 through  
10 11-11-110, 11-11-111(a)(intro) and (b), 11-11-114,  
11 11-11-116 and 11-11-117(b) are amended to read:

12

13       **11-11-101. Definitions.**

14

15       (a) As used in this chapter:

16

1           (ii) "Warehouseman" means any person except the  
2 grower who buys or sells grain at wholesale, ~~or warehouses~~  
3 ~~or stores grain,~~ or receives or solicits grain for  
4 purchase, sale, shipment or storage either in or outside  
5 the state of Wyoming;

6  
7           (iii) "Grain" means any variety of beans, wheat,  
8 corn, oats, barley, rye, ~~sorghum grains~~ grain sorghum,  
9 millet, oil seeds, sunflower, soybean, flax, or seeds of  
10 legumes and grasses;

11  
12           (vi) "Scale ticket" means a load slip or other  
13 evidence of delivery, other than a warehouse receipt, given  
14 to the party making delivery by a warehouse licensed under  
15 the provisions of this act;

16  
17           (vii) "Warehouse" means an elevator, mill,  
18 warehouse, subterminal grain warehouse, public warehouse or  
19 other structure or facility in which for legal  
20 consideration grain is received for storage, handling,  
21 processing or shipment either in or out of the state of  
22 Wyoming.

23

1           **11-11-103. Warehousemen and warehouses to procure**  
2 **licenses; fee; annual renewal.**

3  
4 Before engaging in business in Wyoming, a warehouseman and  
5 a person operating a warehouse shall procure a license from  
6 the director and pay to the department of agriculture the  
7 fee determined by the board of agriculture under this  
8 section for the initial license and for each annual renewal  
9 thereof. The fee set by the board of agriculture shall  
10 represent an amount sufficient to cover up to fifty percent  
11 (50%) of anticipated costs of the inspection program, but  
12 shall not exceed one hundred twenty-five dollars (\$125.00).  
13 All licenses shall be issued for the fiscal year, or  
14 fraction thereof, ending June 30. No license shall be  
15 renewed unless the director finds from his annual  
16 inspection of the warehouse and audit of the warehouse or  
17 warehouseman's records that the operations are conducted  
18 properly.

19

20           **11-11-104. Application for license; form; contents;**  
21 **refusal to issue license; appeal.**

22

23 The director shall prescribe forms for application for a  
24 warehouseman's or warehouse license. The application shall

1 contain information necessary to inform the director of the  
2 qualifications, facilities, experience and financial  
3 ability of the applicant to carry on the business of  
4 buying, selling, warehousing and storing grain. The  
5 director may require the submission of a financial  
6 statement or audit prepared by a public accountant or a  
7 certified public accountant in order to establish the  
8 financial responsibility of the applicant. If a license is  
9 refused by the director, appeal may be made to the state  
10 board of agriculture.

11

12 **11-11-105. Cash or surety bond required; amount;**  
13 **approval by director; conditions; exception.**

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15 Each applicant for a warehouseman's or warehouse license  
16 shall post a cash bond or execute and file with the  
17 director a good and sufficient surety bond in an amount  
18 determined by the board of agriculture based on the maximum  
19 number of hundred weight the warehouseman or warehouse can  
20 store in the warehouses for which the bond is required, but  
21 not less than ~~fifteen thousand dollars (\$15,000.00)~~ twenty  
22 thousand dollars (\$20,000.00). A surety bond shall be  
23 executed by a responsible surety company licensed to do  
24 business in this state, approved by the director, and

1 conditioned upon the faithful performance of the  
2 warehouseman's or person operating a warehouse obligation  
3 under the laws of this state and of any additional  
4 obligations assumed by him under contract with those who  
5 deposit grain with him. All bonds shall be payable to the  
6 state for the benefit of any injured party, and shall be in  
7 such form and contain such additional conditions as the  
8 director may prescribe. No person is required to file such  
9 bond who has already posted similar bond with the United  
10 States department of agriculture pursuant to the United  
11 States Warehouse Act of August 11, 1916, as amended.

12

13 **11-11-106. Action on bond for breach of obligations;**  
14 **joinder of parties.**

15

16 Any person injured by the warehouseman's or warehouse's  
17 breach of any obligation provided by law may sue on the  
18 bond in his own name in any court of competent jurisdiction  
19 to recover the damage sustained by the breach. Where more  
20 than one (1) person is injured, the action may be brought  
21 in the name of all injured persons by any one or all  
22 interested parties, or by the state of Wyoming in their  
23 behalf.

24

1           **11-11-107. Investigation by director; complaint;**  
2 **service; hearing.**

3

4 The director upon his own motion or upon verified complaint  
5 against any warehouseman or warehouse shall investigate as  
6 he deems necessary, and shall at all times have free and  
7 unimpeded access to all facilities or places in which grain  
8 is kept, stored, handled or transported. If the director,  
9 upon investigation, has reason to believe that any dealer  
10 is not acting as required by law, or upon the filing of a  
11 verified complaint against the warehouseman or warehouse,  
12 he shall have a complaint or copy of the verified complaint  
13 served upon the warehouseman or warehouse by personal  
14 service, service upon a registered agent or by registered  
15 mail. If the warehouseman or warehouse fails to make  
16 prompt adjustment or settlement of the charges set forth,  
17 to the satisfaction of the director, the director shall  
18 give notice of the time and place of a hearing thereon.  
19 The hearing shall be held in accordance with the Wyoming  
20 Administrative Procedure Act.

21

22           **11-11-108. Warehouse receipts generally.**

23

1 All warehouse receipts issued for stored grain shall be in  
2 a form prescribed by the director and shall be obtainable  
3 only by the warehouseman or warehouse from the director at  
4 cost. Each warehouse receipt issued must show the amount  
5 of any cash or the value of any merchandise the  
6 warehouseman or warehouse has advanced on the grain  
7 represented by the receipt, but such notation shall not be  
8 construed as fixing the date of sale of the grain.

9

10 **11-11-109. Inspection of warehouses; audit of**  
11 **records; fees for inspections.**

12

13 At least once each year and more often if necessary or if  
14 requested by an interested person the director shall  
15 inspect each licensed warehouse and shall audit the  
16 ~~warehouseman's~~ warehouse records. However, no audit shall  
17 be performed if ~~the warehouseman~~ the person operating the  
18 warehouse certifies that ~~he~~ the warehouse does not have any  
19 grain stored for others. ~~in his warehouse.~~ The director  
20 after conferring with interested industry groups shall fix,  
21 assess and collect fees for the inspection of facilities  
22 storing farm products. The fees shall not exceed fifty  
23 percent (50%) of the cost of the inspection and shall be  
24 paid by the person requesting the inspection, if any.

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2

**11-11-110. Warehouse's records; generally.**

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4

Every licensed ~~warehouseman~~warehouse shall maintain complete records of all grain stored, all grain withdrawn from storage, all warehouse receipts issued and all receipts returned to and cancelled by him. The records shall be available for examination and audit by the director at any reasonable time.

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**11-11-111. Warehouseman's and warehouse's records; contents; inspection by director; issuance of warehouse receipts.**

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(a) Every warehouseman and warehouse shall keep a complete record of all grain handled by him including the following:

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(b) The above records shall be open to the confidential inspection of the director or his authorized agents at all times. Upon request of the depositor, every warehouseman and warehouse shall issue a receipt for all grain received for storage on a form furnished by the director.

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2           **11-11-114. Stored grain to constitute bailment;**  
3 **amount in storage to equal issued storage certificates;**  
4 **exceptions; conversion; seizure.**

5

6           (a) The storage of grain with a warehouse and the  
7 movement of grain by a warehouseman ~~is~~ constitutes a  
8 bailment and not a sale. Upon return of the scale ticket  
9 bearing the name of the bailee or warehouse receipt  
10 properly endorsed and payment or tender of all advances and  
11 charges, the owner of the scale ticket or warehouse receipt  
12 is entitled to, and the warehouseman or person operating a  
13 warehouse shall deliver the identical grade and amount of  
14 grain placed in storage or transported. Every ~~warehouseman~~  
15 person operating a warehouse shall maintain at all times in  
16 storage, in the state of Wyoming, grain equal in amount and  
17 grade to all scale tickets and warehouse receipts issued,  
18 unless authorized in writing by holders of scale tickets or  
19 warehouse receipts or by the director to move to other  
20 storage, and failure to do so is a conversion thereof.

21

22           (b) Grain stored with a ~~warehouseman~~ warehouse is not  
23 liable to seizure upon process of a court against the  
24 bailee except upon action by the owners of scale tickets or

1 warehouse receipts to enforce the terms of the scale  
2 tickets or receipts. In the event of the failure or  
3 insolvency of the bailee, the grain shall be first applied  
4 as soon as ownership is established and within one hundred  
5 twenty (120) days exclusively to the redemption and  
6 satisfaction of outstanding scale tickets and warehouse  
7 receipts for grain stored or moved with the bailee and  
8 grain on hand in a particular warehouse of the bailee shall  
9 be first applied to the redemption and satisfaction of the  
10 scale tickets or receipts issued by that warehouseman or  
11 person operating a warehouse as the bailee.

12

13 **11-11-116. Revocation and cancellation of license.**

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15 Failure of any warehouseman or person operating a warehouse  
16 to comply with the provisions of this chapter will render  
17 the license of the warehouseman or person operating a  
18 warehouse subject to revocation and cancellation by the  
19 director.

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21 **11-11-117. Prohibited acts; penalties for violations.**

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23 (b) Any warehouseman or person operating a warehouse  
24 who converts to his own use or that of another, any grain

1 stored or accepted for storage of the value of five hundred  
2 dollars (\$500.00) or more, is guilty of a felony and shall  
3 be imprisoned for not to exceed fourteen (14) years. If  
4 the value of the grain converted is less than five hundred  
5 dollars (\$500.00), the warehouseman or person operating a  
6 warehouse is guilty of a misdemeanor and shall be fined not  
7 to exceed one hundred dollars (\$100.00) or imprisoned not  
8 to exceed six (6) months, or both.

9

10 **Section 2.** This act is effective July 1, 2002.

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(END)