

WORKING DRAFT

HOUSE BILL NO. _____

Grain laws.

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

A BILL

for

1 AN ACT relating to agriculture; clarifying the grain laws
2 relating to buying, selling and storing grain; amending
3 license fees; amending bonding requirements; amending audit
4 requirements; amending insurance requirements; making
5 conforming amendments; amending penalties; providing an
6 appropriation; authorizing an additional position; and
7 providing for an effective date.

8

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

10

11 **Section 1.** W.S. 11-11-101(a)(ii)(vii) and by creating
12 new paragraphs (viii) through (xii), 11-11-103 through
13 11-11-105, 11-11-107 through 11-11-110, 11-11-111(a)(i) and
14 by creating a new paragraph (viii) and (b), 11-11-112,

1 11-11-113, 11-11-114(a) and by creating a new subsection
2 (c) and 11-11-115 through 11-11-117 are amended to read:

3

4 **11-11-101. Definitions.**

5

6 (a) As used in this chapter:

7

8 (ii) "Warehouseman" means any person except the
9 grower who buys or sells grain at wholesale, or receives or
10 solicits grain for purchase, sale, ~~shipment~~transportation
11 or storage either in or outside the state of Wyoming;

12

13 (vii) "Warehouse" means an elevator, mill,
14 ~~warehouse~~storage bin or building, subterminal grain
15 ~~warehouse~~storage facility, public ~~warehouse~~storage
16 facility or other structure or facility in which for legal
17 consideration grain is received for storage, handling,
18 processing or ~~shipment~~transportation either in or out of
19 the state of Wyoming;~~;~~

20

21 (viii) "Depositor" means any person who is in
22 possession of a commodity and entrusts or delivers the
23 commodity to a warehouse for storage;

24

1 (ix) "Loss" means the destruction of the
2 commodity due to fire, theft, insects or weather;

3
4 (x) "Receipt" means a warehouse receipt issued
5 under this act, including an electronic receipt;

6
7 (xi) "Transportation" means the movement of
8 grain from one (1) point to another;

9
10 (xii) "Verified" means signed and sworn to be
11 accurate before a person authorized to administer oaths.

12
13 **11-11-103. Warehousemen and warehouses to procure**
14 **licenses; fee; annual renewal.**

15
16 (a) Before engaging in business in Wyoming, a
17 warehouseman ~~and a~~ or any person operating a warehouse
18 shall procure a license from the ~~director and pay to the~~
19 ~~department of agriculture~~ The fee determined by the board
20 ~~of agriculture~~ under this section for the initial license
21 and for each annual renewal thereof. ~~The fee set by the~~
22 ~~board of agriculture shall represent an amount sufficient~~
23 ~~to cover up to fifty percent (50%) of anticipated costs of~~
24 ~~the inspection program, but shall not exceed one hundred~~

1 ~~twenty-five dollars (\$125.00).~~ shall be two hundred fifty
2 dollars (\$250.00). All licenses shall be issued for the
3 fiscal year, or fraction thereof, ending June 30. No
4 license shall be renewed unless the ~~director~~ department
5 finds from ~~his annual inspection~~ the audit required under
6 W.S. 11-11-109 of the warehouse ~~and audit of the warehouse~~
7 or warehouseman's records that the operations are conducted
8 properly.

9
10 (b) License renewals received after the June 30
11 deadline shall be charged an additional two hundred dollars
12 (\$200.00).

13
14 (c) The fees shall be reviewed every five (5) years
15 by the director in consultation with the board.

16
17 **11-11-104. Application for license; form; contents;**
18 **refusal to issue license; appeal; care of agricultural**
19 **products.**

20
21 (a) The ~~director~~ department shall prescribe forms for
22 application for a warehouseman's or warehouse license. The
23 application shall contain information necessary to inform
24 the ~~director~~ department of the qualifications, facilities,

1 experience and financial ability of the applicant to carry
2 on the business of buying, selling, warehousing and storing
3 grain. The ~~director~~department may require the submission
4 of a financial statement or audit prepared by a public
5 accountant or a certified public accountant in order to
6 establish the financial responsibility of the applicant.
7 If a license is refused by the ~~director~~department, appeal
8 may be made to the ~~state board of agriculture~~director.
9 All hearings for appeal shall be conducted in accordance
10 with the Wyoming Administrative Procedure Act.

11

12 (b) Each warehouse or warehouseman shall at all
13 times, including during any period of suspension of their
14 license, exercise such care in regard to stored and non-
15 storage agricultural commodities in their custody as
16 required under the licensing agreement.

17

18 **11-11-105. Surety bond required; amount; approval by**
19 **department; conditions; exception.**

20

21 Each applicant for a warehouseman's or warehouse license
22 shall ~~post a cash bond or execute and file with the~~
23 ~~director a good and sufficient~~provide to the department a
24 surety bond in an amount determined by the ~~board of~~

1 ~~agriculture department~~ based on the maximum number of
2 hundred weight the warehouseman or warehouse can store in
3 the warehouses for which the bond is required, but not less
4 than twenty thousand dollars (\$20,000.00). which shall be
5 equal to seventy-five percent (75%) of total receipts of
6 the warehouse from the previous year. If the warehouse
7 does not have any bonding history, the bonding requirement
8 shall be equal to seventy-five percent (75%) of the value
9 of the most valuable potentially stored commodity as
10 determined by the department. A surety bond shall be
11 executed by a responsible surety company licensed to do
12 business in this state, ~~approved by the director,~~ and
13 conditioned upon the faithful performance of the obligation
14 of the warehouseman or person operating a warehouse under
15 the laws of this state and of any additional obligations
16 assumed by him under contract with those who deposit grain
17 with him. All bonds shall be payable to the state for the
18 benefit of any injured party, and shall be in the form and
19 contain additional conditions as the ~~director~~ department
20 may prescribe. No person is required to file a bond who
21 has already posted similar bond with the United States
22 department of agriculture pursuant to the United States
23 Warehouse Act of August 11, 1916, as amended.

24

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

3
4 The ~~director~~ department upon ~~his~~ its own motion or upon
5 verified complaint against any warehouseman or warehouse
6 shall investigate as ~~he~~ the department deems necessary, and
7 shall at all times have free and unimpeded access to all
8 facilities or places in which grain is kept, stored,
9 handled or transported. If the ~~director~~ department, upon
10 investigation, has reason to believe that any ~~dealer~~
11 warehouseman or warehouse is not acting as required by law,
12 or upon the filing of a verified complaint against the
13 warehouseman or warehouse, ~~he~~ the department shall have a
14 complaint or copy of the verified complaint served upon the
15 warehouseman or warehouse by personal service, service upon
16 a registered agent or by registered mail. If the
17 warehouseman or warehouse fails to make prompt adjustment
18 or settlement of the charges set forth, to the satisfaction
19 of the ~~director~~ department, the ~~director~~ department shall
20 give notice of the time and place of a hearing thereon.
21 The hearing shall be held in accordance with the Wyoming
22 Administrative Procedure Act.

23

24 **11-11-108. Warehouse receipts generally.**

1

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

11

12 **11-11-109. Audit of records.**

13

14 ~~At least once each year and more often if necessary~~Two (2)
15 audits shall be conducted on each warehouse on an annual
16 basis as scheduled by the department, or if requested by an
17 interested person the ~~director~~department shall inspect
18 each licensed warehouse and shall audit the warehouse
19 records. ~~However, no audit shall be performed if the~~
20 ~~person operating the warehouse certifies that the warehouse~~
21 ~~does not have any grain stored for others. The director~~
22 ~~after conferring with interested industry groups shall fix,~~
23 ~~assess and collect fees for the inspection of facilities~~
24 ~~storing farm products. The fees shall not exceed fifty~~

1 ~~percent (50%) of the cost of the inspection and shall be~~
2 ~~paid by the person requesting the inspection, if any.~~

3
4 **11-11-110. Warehouse's records; generally.**

5
6 Every licensed warehouse shall maintain complete records of
7 all grain stored, all grain withdrawn from storage, all
8 warehouse receipts issued and all receipts returned to and
9 cancelled by him. The records shall be available for
10 examination and audit by the ~~director~~department at any
11 reasonable time.

12
13 **11-11-111. Warehouseman's and warehouse's records;**
14 **contents; inspection and audit by department; issuance of**
15 **warehouse receipts.**

16
17 (a) Every warehouseman and warehouse shall keep a
18 complete record of all grain handled by him including the
19 following:

20
21 (i) Name~~and~~, address, phone number and premise
22 identification number if available of the grower and of the
23 owner;

24

1 (viii) Documentation stating the location of the
2 stored commodity. If the commodity is stored in another
3 warehouse, then proof of bonding by that facility shall be
4 included in the records.

5
6 (b) The above records shall be open to the
7 confidential inspection of the ~~director~~department or ~~his~~
8 its authorized agents at all times. Upon request of the
9 depositor, every warehouseman and warehouse shall issue a
10 receipt for all grain received for storage on a form
11 furnished by the ~~director~~department.

12
13 **11-11-112. Stored grain to be insured; insurance**
14 **requirements; disaster loss to be reported.**

15
16 ~~(a) The director shall prescribe rules and~~
17 ~~regulations necessary for the safe conduct of the grain~~
18 ~~storage business and shall require that~~ All grain stored
19 shall be insured against loss for full value by an
20 insurance company licensed to do business in this state. A
21 copy of the insurance policy in effect shall be provided to
22 the department at the time of the audit.

23
24 (b) Each warehouse or warehouseman shall comply fully

1 with the terms of insurance policies or contracts covering
2 their warehouse and all products stored therein, and shall
3 not commit any acts, nor permit others to commit any acts,
4 that might impair or invalidate such insurance.

5
6 (c) If at any time a disaster or loss occurs at or
7 within any licensed warehouse, the warehouseman shall
8 immediately report to the department the occurrence of the
9 disaster or loss and the extent of damage.

10
11 **11-11-113. Grading of grain; notation on warehouse**
12 **receipt.**

13
14 All grain accepted for storage shall be graded by the
15 warehouse or warehouseman according to standards of the
16 United States department of agriculture, and the grade
17 established shall be specified upon the warehouse receipt
18 issued for the grain.

19
20 **11-11-114. Stored grain to constitute bailment;**
21 **amount in storage to equal issued storage certificates;**
22 **exceptions; conversion; seizure.**

23

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

17

18 (c) All warehouses shall post current fees and
19 charges at all times.

20

21 **11-11-115. Disposition of collected funds.**

22

23 There is created the grain warehouse inspection account
24 within the earmarked revenue fund. All funds collected by

1 the ~~director~~department shall be deposited in the account
2 created by this section. Interest earned by the account
3 shall be retained in the account. The account is
4 appropriated for use and expenditure by the ~~board of~~
5 ~~agriculture~~department for the costs of administering the
6 programs under this article. Itemized vouchers shall be
7 submitted to the ~~chief executive officer of the board~~
8 department for approval. Upon approval, a warrant for the
9 payment of each voucher shall be issued by the state
10 auditor for payment from the grain warehouse inspection
11 account.

12

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

14

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~~department.

20

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

22

23 (a) Any person who engages in or carries on any grain
24 warehousing business without first having obtained a

1 license, or who continues to engage in or carry on such
2 business after his license has been suspended, revoked or
3 expires is guilty of a misdemeanor and shall be fined not
4 less than ~~twenty five dollars (\$25.00)~~ one hundred dollars
5 (\$100.00) nor more than ~~one hundred dollars (\$100.00)~~ five
6 hundred dollars (\$500.00). Each day that such unlicensed
7 business is carried on is a separate offense.

8
9 (b) Any warehouseman or person operating a warehouse
10 who converts to his own use or that of another, any grain
11 stored or accepted for storage of the value of five hundred
12 dollars (\$500.00) or more, is guilty of a felony and shall
13 be fined not less than five hundred dollars (\$500.00) for
14 each day of violation and imprisoned for not to exceed
15 fourteen (14) years. If the value of the grain converted
16 is less than five hundred dollars (\$500.00), the
17 warehouseman or person operating a warehouse is guilty of a
18 misdemeanor and shall be fined not to exceed ~~one hundred~~
19 ~~dollars (\$100.00)~~ five hundred dollars (\$500.00) or
20 imprisoned not to exceed six (6) months, or both.

21
22 **Section 2.**

23
24 (a) There is appropriated one hundred two thousand

1 seven hundred dollars (\$102,700.00), or as much thereof as
2 is necessary, from the general fund to the department of
3 agriculture for the fiscal year beginning July 1, 2005, to
4 implement the purposes of this act.

5

6 (b) The department of agriculture is authorized one
7 (1) additional full time position to perform the audits of
8 grain warehouses.

9

10 **Section 3.** This act is effective immediately upon
11 completion of all acts necessary for a bill to become law
12 as provided by Article 4, Section 8 of the Wyoming
13 Constitution.

14

15

(END)