

SENATE FILE NO. SF0018

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. 11-11-118 is created to read:

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13 **11-11-118. Perjury.**

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15 Any affirmation under this chapter shall be given under  
16 penalty of perjury.

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2       **Section 2.** W.S. 11-11-101(a)(ii), (vii) and by  
3 creating new paragraphs (viii) through (xiv), 11-11-103  
4 through 11-11-105, 11-11-107 through 11-11-110,  
5 11-11-111(a)(i), by creating a new paragraph (viii) and  
6 (b), 11-11-112, 11-11-113, 11-11-114(a) and by creating a  
7 new subsection (c) and 11-11-115 through 11-11-117 are  
8 amended to read:

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10       **11-11-101. Definitions.**

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12       (a) As used in this chapter:

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14               (ii) "Warehouseman" means any person except the  
15 grower who ~~buys or sells~~ handles grain ~~at wholesale, or~~  
16 ~~receives or solicits grain for purchase, sale, shipment or~~  
17 ~~storage either in or outside the state of Wyoming~~ for  
18 commercial storage or solicits grain for the purpose of  
19 intrastate, interstate or foreign commerce;

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21               (vii) "Warehouse" means an elevator, mill,  
22 ~~warehouse~~ storage bin or building, subterminal grain  
23 ~~warehouse~~ storage facility, public ~~warehouse~~ storage  
24 facility or other structure or facility in which ~~for legal~~

1 ~~consideration~~ grain is received for commercial storage,  
2 ~~handling, processing or shipment either in or out of the~~  
3 ~~state of Wyoming.~~ or for the purpose of intrastate,  
4 interstate or foreign commerce;

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6 (viii) "Audit" means an examination of records  
7 or financial accounts to determine their accuracy;

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9 (ix) "Depositor" means any person who is in  
10 possession of a commodity and entrusts or delivers the  
11 commodity to a warehouse for storage;

12

13 (x) "Inspection" means the physical review or  
14 examination of the grain warehouse or storage facility and  
15 may include an official audit;

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17 (xi) "Loss" means the destruction of the  
18 commodity due to fire, theft or weather;

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20 (xii) "Receipt" means a warehouse receipt issued  
21 under this act, including an electronic receipt;

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23 (xiii) "Transportation" means the movement of  
24 grain from one (1) point to another;

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(xiv) "Verified" means signed and sworn to be accurate before a person authorized to administer oaths.

**11-11-103. Warehousemen to procure licenses; fee; annual renewal.**

Before engaging in business in Wyoming, a warehouseman ~~and~~ a or any person operating a warehouse shall procure a license from the ~~director and pay to the~~ department of agriculture. The fee ~~determined by the board of agriculture~~ under this section for the initial license and for each annual renewal thereof. ~~The fee set by the board of agriculture shall represent an amount sufficient to cover up to fifty percent (50%) of anticipated costs of the inspection program, but shall not exceed~~ shall be one hundred twenty-five dollars (\$125.00). All licenses shall be issued for the fiscal year, or fraction thereof, ending June 30. No license shall be renewed unless the ~~director~~ department finds from ~~his annual inspection~~ the audit required under W.S. 11-11-109 of the warehouse ~~and audit of the warehouse~~ or warehouseman's records that the operations are conducted properly.

1           **11-11-104. Application for license; form; contents;**  
2 **refusal to issue license; appeal; care of agricultural**  
3 **products.**

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5           (a) The ~~director~~department shall prescribe forms for  
6 application for a warehouseman's or warehouse license. The  
7 application shall contain information necessary to inform  
8 the ~~director~~department of the qualifications, facilities,  
9 experience and financial ability of the applicant to carry  
10 on the business of buying, selling, warehousing and storing  
11 grain. The ~~director may~~department shall require the  
12 submission of ~~a~~any tax return, bank statement, financial  
13 statement or audit prepared by a public accountant or a  
14 certified public accountant and any additional information  
15 as required by rules and regulations in order to establish  
16 the financial responsibility of the applicant. If a  
17 license is refused by the ~~director~~department, appeal may  
18 be made to the ~~state board of agriculture~~director. All  
19 hearings for appeal shall be conducted in accordance with  
20 the Wyoming Administrative Procedure Act.

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22           (b) Each warehouseman shall at all times, including  
23 during any period of suspension of his license, exercise  
24 such care in regard to stored and nonstorage agricultural

1 commodities in his custody as required under the licensing  
2 agreement.

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4 **11-11-105. Surety bond required; amount; approval by**  
5 **department; conditions; exception.**

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7 (a) Each applicant for a warehouseman's or warehouse  
8 license shall post a cash bond, irrevocable letter of  
9 credit or execute and file with the ~~director~~ department a  
10 good and sufficient surety bond in an amount determined by  
11 the ~~board of agriculture~~ department based on the maximum  
12 number of hundred weight the warehouseman ~~or warehouse~~ can  
13 store in the warehouses for which the bond is required, but  
14 not less than twenty thousand dollars (\$20,000.00). A  
15 surety bond shall be executed by a responsible surety  
16 company licensed to do business in this state, ~~approved by~~  
17 ~~the director,~~ and conditioned upon the faithful performance  
18 of the obligation of the warehouseman or person operating a  
19 warehouse under the laws of this state and of any  
20 additional obligations assumed by him under contract with  
21 those who deposit grain with him. All bonds shall be  
22 payable to the state for the benefit of any injured party,  
23 and shall be in the form and contain additional conditions  
24 as the ~~director~~ department may prescribe. No person is

1 required to file a bond who has already posted similar bond  
2 with the United States department of agriculture pursuant  
3 to the United States Warehouse Act of August 11, 1916, as  
4 amended.

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6 (b) Cash bonds, irrevocable letters of credit and  
7 surety bonds shall not be released by the department until  
8 an audit has been completed and satisfied. The department  
9 shall publish a public notice for sixty (60) days prior to  
10 any bond being released.

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12 (c) In the event a warehouseman does not renew his  
13 license in accordance with W.S. 11-11-103 or suspends  
14 normal business operations, the department shall post a  
15 public notice in a paper of local distribution for sixty  
16 (60) days prior to the closure of the warehouse.

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18 **11-11-107. Investigation by department; complaint;**  
19 **service; hearing.**

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21 The ~~director~~ department upon ~~his~~ its own motion or upon  
22 verified complaint against any warehouseman ~~or~~ warehouse  
23 shall investigate as ~~he~~ the department deems necessary, and  
24 shall at all times have free and unimpeded access to all

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

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17 **11-11-108. Warehouse receipts generally.**

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19 All warehouse receipts issued for stored grain shall be in  
20 a form prescribed by the ~~director~~department and shall be  
21 obtainable only by the warehouseman ~~or warehouse~~ from the  
22 ~~director~~department at cost. Each warehouse receipt issued  
23 must show the amount of any cash or the value of any  
24 merchandise the warehouseman ~~or warehouse~~ has advanced on



1 the grain represented by the receipt, but such notation  
2 shall not be construed as fixing the date of sale of the  
3 grain.

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5 **11-11-109. Audit of records; inspection of warehouse.**

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7 (a) At least once each year and more often if  
8 necessary or if requested by an interested person the  
9 ~~director~~department shall inspect each licensed warehouse  
10 and shall audit the warehouse records. ~~However, no audit~~  
11 ~~shall be performed if the person operating the warehouse~~  
12 ~~certifies that the warehouse does not have any grain stored~~  
13 ~~for others.~~ The director after conferring with interested  
14 industry groups shall fix, assess and collect fees for the  
15 inspection of facilities storing farm products. The fees  
16 shall not exceed fifty percent (50%) of the cost of the  
17 inspection and shall be paid by the person requesting the  
18 inspection, if any.

19

20 (b) If a warehouseman is delinquent in renewing his  
21 license in accordance with W.S. 11-11-103, the department  
22 shall initiate an inspection and audit of the warehouse  
23 immediately.

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1           **11-11-110. Warehouseman's records; generally.**

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

9

10           **11-11-111. Warehouseman's records; contents;**  
11 **inspection and audit by department; issuance of warehouse**  
12 **receipts.**

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

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18                   (i) Name, ~~and~~ address and phone number of the  
19 grower and of the owner;

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21                           (viii) Documentation stating the location of the  
22 stored commodity. If the commodity is stored in another  
23 warehouse, then proof of bonding by that facility shall be  
24 included in the records.

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

8

9 **11-11-112. Stored grain to be insured; insurance**  
10 **requirements; disaster loss to be reported.**

11

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

20

21 (b) Each warehouseman shall comply fully with the  
22 terms of insurance policies or contracts covering their  
23 warehouse and all products stored therein, and shall not

1 commit any acts, nor permit others to commit any acts, that  
2 might impair or invalidate such insurance.

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4 **11-11-113. Grading of grain; notation on warehouse**  
5 **receipt.**

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7 All grain accepted for storage shall be graded by the  
8 warehouseman or designee according to standards of the  
9 United States department of agriculture, and the grade  
10 established shall be specified upon the warehouse receipt  
11 issued for the grain.

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13 **11-11-114. Stored grain to constitute bailment;**  
14 **amount in storage to equal issued storage certificates;**  
15 **exceptions; conversion; seizure.**

16

17 (a) The storage of grain with a warehouse and the  
18 movement of grain by a warehouseman constitutes a bailment  
19 and not a sale. Upon return of the scale ticket bearing  
20 the name of the bailee or warehouse receipt properly  
21 endorsed and payment or tender of all advances and charges,  
22 the owner of the scale ticket or warehouse receipt is  
23 entitled to, and the warehouseman or person operating a  
24 warehouse shall deliver the identical grade and amount of

1 grain placed in storage or transported. Every person  
2 operating a warehouse shall maintain at all times in  
3 storage, in the state of Wyoming, grain equal in amount and  
4 grade to all scale tickets and warehouse receipts issued,  
5 unless authorized in writing by holders of scale tickets or  
6 warehouse receipts or by the ~~director~~department to move to  
7 other storage, and failure to do so is a conversion  
8 thereof.

9  
10 (c) All warehousemen shall post current tariffs at  
11 all times.

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13 **11-11-115. Disposition of collected funds.**

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15 There is created the grain warehouse inspection account  
16 within the earmarked revenue fund. All funds collected by  
17 the ~~director~~department shall be deposited in the account  
18 created by this section. Interest earned by the account  
19 shall be retained in the account. The account is  
20 appropriated for use and expenditure by the ~~board~~of  
21 agriculturedepartment for the costs of administering the  
22 programs under this article. Itemized vouchers shall be  
23 submitted to the ~~chief executive officer of the board~~  
24 department for approval. Upon approval, a warrant for the

1 payment of each voucher shall be issued by the state  
2 auditor for payment from the grain warehouse inspection  
3 account.

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5 **11-11-116. Revocation and cancellation of license.**

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7 Failure of any warehouseman or person operating a warehouse  
8 to comply with the provisions of this chapter will render  
9 the license of the warehouseman or person operating a  
10 warehouse subject to revocation and cancellation by the  
11 ~~director~~ department.

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13 **11-11-117. Prohibited acts; penalties for violations.**

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15 (a) Any person who engages in or carries on any grain  
16 warehousing business without first having obtained a  
17 license, or who continues to engage in or carry on such  
18 business after his license has been suspended, revoked or  
19 expires is guilty of a misdemeanor and shall be fined not  
20 less than ~~twenty five dollars (\$25.00)~~ one hundred dollars  
21 (\$100.00) nor more than ~~one hundred dollars (\$100.00)~~ five  
22 hundred dollars (\$500.00) for each offense. Each day that  
23 such unlicensed business is carried on is a separate  
24 offense.

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**Section 3.**

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

1           (b) The department of agriculture is authorized one  
2           (1) additional full-time position to perform the audits of  
3 grain warehouses.

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5           **Section 4.** This act is effective immediately upon  
6 completion of all acts necessary for a bill to become law  
7 as provided by Article 4, Section 8 of the Wyoming  
8 Constitution.

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(END)