

ORIGINAL HOUSE
BILL NO. 0007

ENROLLED ACT NO. 2, HOUSE OF REPRESENTATIVES

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

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

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

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

11-11-101. Definitions.

(a) As used in this chapter:

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

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

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

(vii) "Warehouse" means an elevator, mill, warehouse, subterminal grain warehouse, public warehouse or other structure or facility in which for legal

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FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

consideration grain is received for storage, handling, processing or shipment either in or out of the state of Wyoming.

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

Before engaging in business in Wyoming, a warehouseman and a 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 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 finds from his annual inspection of the warehouse and audit of the warehouse or warehouseman's records that the operations are conducted properly.

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

The director shall prescribe forms for application for a warehouseman's or warehouse license. The application shall contain information necessary to inform the director of the qualifications, facilities, experience and financial ability of the applicant to carry on the business of buying, selling, warehousing and storing grain. The director may require the submission of a financial statement or audit prepared by a public accountant or a certified public accountant in order to establish the financial responsibility of the applicant. If a license is

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refused by the director, appeal may be made to the state board of agriculture.

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

Each applicant for a warehouseman's or warehouse license shall post a cash bond or execute and file with the director a good and sufficient surety bond in an amount determined by the board of agriculture based on the maximum number of hundred weight the warehouseman or warehouse can store in the warehouses for which the bond is required, but not less than ~~fifteen thousand dollars (\$15,000.00)~~ twenty thousand dollars (\$20,000.00). A surety bond shall be executed by a responsible surety company licensed to do business in this state, approved by the director, and conditioned upon the faithful performance of the warehouseman's or person operating a warehouse obligation under the laws of this state and of any additional obligations assumed by him under contract with those who deposit grain with him. All bonds shall be payable to the state for the benefit of any injured party, and shall be in such form and contain such additional conditions as the director may prescribe. No person is required to file such bond who has already posted similar bond with the United States department of agriculture pursuant to the United States Warehouse Act of August 11, 1916, as amended.

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

Any person injured by the warehouseman's or warehouse's breach of any obligation provided by law may sue on the bond in his own name in any court of competent jurisdiction to recover the damage sustained by the breach. Where more than one (1) person is injured, the action may be brought

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FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

in the name of all injured persons by any one or all interested parties, or by the state of Wyoming in their behalf.

11-11-107. Investigation by director; complaint; service; hearing.

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

11-11-108. Warehouse receipts generally.

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

ORIGINAL HOUSE
BILL NO. 0007

ENROLLED ACT NO. 2, HOUSE OF REPRESENTATIVES

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

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

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

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

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.

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

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

(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

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ENROLLED ACT NO. 2, HOUSE OF REPRESENTATIVES

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warehouseman and warehouse shall issue a receipt for all grain received for storage on a form furnished by the director.

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

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

(b) Grain stored with a ~~warehouseman~~ warehouse is not liable to seizure upon process of a court against the bailee except upon action by the owners of scale tickets or warehouse receipts to enforce the terms of the scale tickets or receipts. In the event of the failure or insolvency of the bailee, the grain shall be first applied as soon as ownership is established and within one hundred twenty (120) days exclusively to the redemption and satisfaction of outstanding scale tickets and warehouse receipts for grain stored or moved with the bailee and grain on hand in a particular warehouse of the bailee shall be first applied to the redemption and satisfaction of the

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ENROLLED ACT NO. 2, HOUSE OF REPRESENTATIVES

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

scale tickets or receipts issued by that warehouseman or person operating a warehouse as the bailee.

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

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

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

(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 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) or imprisoned not to exceed six (6) months, or both.

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ENROLLED ACT NO. 2, HOUSE OF REPRESENTATIVES

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
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Section 2. This act is effective July 1, 2002.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk